



**TOWN OF REDINGTON BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
AGENDA**

**Wednesday, November 15, 2023
6:30 PM**

Town Hall

Assembly Hall

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. APPROVAL OF AGENDA November 15, 2023**
- 5. PUBLIC FORUM: Non-Agenda Items Only NOTE: A three-minute time limit applies to all comments from the public on non-agenda items only. If a person wishes to address the Board of Commissioners, **about a NON-AGENDA item**, please fill out a "Speakers Card" and give it to the Town Clerk prior to the start of the meeting.**
- 6. REPORTS**
 - Public Safety – Commissioner Murray
 - Building/Code – Commissioner Skjoldager
 - Public Works/Parks – Commissioner Cariello
 - Finance - Vice-Mayor Kornijtschuk
 - Mayor – Mayor Will
 - Town Clerk
 - Town Attorney
 - Boards & Committees
- 7. CONSENT AGENDA**
 - A. Board Regular Meeting minutes, November 1, 2023
 - B. Bill List for Day Ending November 9, 2023
- 8. UNFINISHED BUSINESS**

None
- 9. NEW BUSINESS**
 - A. Appointment of Regular Member for the Planning Board
 - B. Resolution 2023-09 FY 2022/2023 Budget Amendments
 - C. First Reading: Ordinance 2023-02: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 10 (Floodplain Management) of the Town Code to Respond to New FEMA Regulations By Revising Regulations Related To Specifying Elevation Requirements For Manufactured Homes In Flood Hazard Areas; Making Related Findings; And Providing For Codification, Severability, And For An Effective Date.
 - D. Request for Relief 70.51– 16100 5th St. E
 - E. 4th St E drainage improvements



10. OTHER BUSINESS

11. ADJOURNMENT

Note: The Town of Redington Beach Board of Commissioners meet the First and Third Wednesday of each month beginning at 6:30 p.m.

The Town of Redington Beach Board of Commissioners may take action on any matter during this meeting, including items that are not set forth within this agenda.

Minutes of the Board of Commissioners meeting may be obtained from the Town Clerk's office. The meetings may be recorded. The Minutes are not transcribed verbatim. It is the policy of the Board of Commissioners to make "action minutes" of all meetings.

Persons requiring a verbatim transcript of any Town meeting (for purposes of appeal or otherwise) should make arrangements to have a certified Court Reporter, at their own cost and expense, present at the meeting.

Persons who wish to appeal any decision made by the Board of Commissioners with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. (F.S 286.0105) **Notice Regarding Special Accommodations: (F.S. 286.26)**

In accordance with F.S. 286.26 persons with disabilities needing special accommodations to participate in this meeting should contact the office of the Town Clerk 727-391-3875 no later than 2:00 p.m. on the day prior to the meeting to make arrangements for such special accommodations.

7. CONSENT AGENDA

A. Board Regular Meeting minutes, November 1, 2023

B. Bill List for Day Ending November 9, 2023



**TOWN OF REDINGTON BEACH, FLORIDA
BOARD REGULAR MEETING MINUTES
Wednesday, November 1, 2023
6:30 p.m.**

Having been duly advertised as required by law, the **Regular Meeting** of the Board of Commissioners of the Town of Redington Beach, Florida, was held on **Wednesday, November 1, 2023 at 6:30 pm**, in Redington Beach Town Hall at 105 164th Avenue, Redington Beach Florida.

Mayor Will called the **Regular Meeting** to order and led the pledge of allegiance.

Roll Call:

	Present	Absent
*Commissioner Cariello	X	
Commissioner Murray	X	
Commissioner Skjoldager	X	
Vice Mayor Kornijtschuk	X	
Mayor Will	X	
Town Attorney Meyer	X	
Town Clerk Nieves	X	

*Commissioner Cariello attended via telephone

Agenda: A motion by Vice Mayor Kornijtschuk and seconded by Commissioner Skjoldager to approve the agenda. No public comment. Motion passed unanimously.

Public Forum:

None

Reports:

Public Safety

- Commissioner Murray reported that the Public Safety Day event was a big success and thanked the Madeira Beach Fire Department, Pinellas County Sheriff's Office, FEMA and office staff.

Building/Code

- Nothing to report.

Public Works/Parks

- Commissioner Cariello reported that the Park Board's Trunk or Treat event was a big success. The Turtle signs are completed and are ready to be installed. Shenandoah Contractors will be starting the valve repair project at 4 locations on Monday, November 6th, 2023. He noted that the repairs can be completed from the seawall – no boat required – which may keep costs down.

Finance

- Vice Mayor Kornijtschuk reported that the Town is finally transferring its cash to Valley Bank from Chase Bank.

Mayor

- Mayor Will reported that lots of kids showed up in Town for trick or treating on Halloween night.

Town Clerk

- Clerk Nieves reported that the actual funds transfer will be made this week and that all agencies that deposit revenues on behalf of the Town would be notified.

Town Attorney

- Nothing to report.

Boards and Committees

- Commissioner Skjoldager reported that the Library Board met and discussed improving its social media. The next meeting will be held on Monday, November 27th.

CONSENT AGENDA

- A. Board Regular Meeting minutes, October 18, 2023
- B. Bill List for Day Ending October 27, 2023

A motion by Vice Mayor Kornijtschuk, seconded by Commissioner Skjoldager to approve the consent agenda as presented. No discussion. No public comment. Motion passed unanimously.

UNFINISHED BUSINESS

- A. Pinellas County Dune Restoration Project Update – Mayor Will reported that Pinellas County Public Works Director Kelli Levy created the Q & A as a result of the questions submitted by the Town's residents regarding the dune project. The Q & A is posted on the Town's websites. Mayor Will also reported that the Town has hired a surveyor to plant markers at 3 locations – Moon Park, Beach Park and the 162nd Ave. beach access to indicate where 10' NAVD is located.

Public comment – Leslie Wilkins 505 161st Ave., asked if there is a timeline of when the project will start.

NEW BUSINESS

None

OTHER BUSINESS

None

Adjournment: With no further business, a motion was made by Vice Mayor Kornijtschuk and seconded by Commissioner Murray to adjourn. Regular meeting was adjourned at 6:40pm.

Adopted: November 15, 2023

Adriana Nieves, CMC, Town Clerk

INVOICE APPROVAL LIST BY FUND REPORT

Date: 11/09/2023

Time: 10:36 am

Page: 2

Town of Redington Beach

Fund/Dept/Acct	Vendor Name	Invoice #	Invoice Desc.	Check #	Due Date	Posting Date	Amount
101-514-514.310	Legislative Coun: SHUMAKER ADVISORS FLOI	4262	State affairs for NOV \$2500.00	0	11/01/2023	11/01/2023	2,688.05
							2,688.05
101-514-514.421	Special Magistrat GEORGE GREER	1574	Special magistrate - Koehler	0	11/06/2023	11/06/2023	1,850.00
							1,850.00
Total Dept. Legal Counsel:							7,598.05
Dept: 521 Law Enforcement							
101-521-521.340	Law Enforcemen/ PINELLAS COUNTY SHERIFI	1381627	Law enfc.services Nov 2023	0	11/01/2023	11/01/2023	26,176.00
							26,176.00
Total Dept. Law Enforcement:							26,176.00
Dept: 534 Garbage/Solid Waste C							
101-534-534.700	Refuse Collectior WASTE CONNECTIONS OF F	3896609W416	Yard sale dumpster	0	10/31/2023	10/31/2023	55.00
							55.00
Total Dept. Garbage/Solid Waste Control:							55.00
Dept: 541 Roads & Streets							
101-541-541.467	Maint - Street Lig DUKE ENERGY	400640000484	Sept 13th - Oct 17th	0	10/25/2023	10/25/2023	3,870.63
							3,870.63
Total Dept. Roads & Streets:							3,870.63
Dept: 572 Parks and Recreation							
101-572-572.341	Storm Debris Col BEACH HARDWARE	316243	Multiple GFoutlet replacement	0	11/01/2023	11/01/2023	198.08
	BEACH HARDWARE	316244	Multiple GFoutlet replacemen	0	11/01/2023	11/01/2023	116.71
							314.79
101-572-572.430	Utilities DUKE ENERGY	400640000484	Sept 13th - Oct 17th	0	10/25/2023	10/25/2023	65.75
	DUKE ENERGY	200102096653	Sept 27th-Oct.26 (Town Park)	0	10/30/2023	10/30/2023	32.87
							98.62
101-572-572.462	Maintenance - Gr ZARRA BOYD, INC.	52908	DUNE REST PROJECT	0	11/05/2023	11/05/2023	450.00
							450.00
101-572-572.510	Maintenance Equ EVERGLADES FARM EQUIPI	w61946	PUBLIC WORKS TRACTOR RE	0	09/18/2023	09/18/2023	405.24
							405.24
101-572-572.522	Gasoline & Oil WEX BANK	790444	Unleaded - Christian	0	10/30/2023	10/30/2023	118.55
	WEX BANK	865295	Unleaded - Dave	0	11/02/2023	11/02/2023	58.97
	WEX BANK	987248	Unleaded + interest	0	11/07/2023	11/07/2023	12.00
	WEX BANK	987248	Unleaded + interest	0	11/07/2023	11/07/2023	40.82
							230.34
Total Dept. Parks and Recreation:							1,498.99
Total Fund General Fund:							54,980.38

Fund: 400 Storm Water

Dept: 535 Storm Water

400-535-535.441 Utility Mailing Co:

Fund/Dept/Acct	Vendor Name	Invoice #	Invoice Desc.	Check #	Due Date	Posting Date	Amount
	PINELLAS COUNTY UTILITIE	90005385	Stormwater billing Oct 2023	0	11/02/2023	11/02/2023	533.65
							533.65
						Total Dept. Storm Water:	533.65
						Total Fund Storm Water:	533.65
						Grand Total:	55,514.03

11/2/2023	11257 PAYROLL	\$	2,198.28
	11258 PAYROLL	\$	1,581.35
	11259 PAYROLL	\$	1,619.57
	11260 PAYROLL	\$	1,173.44

		\$	6,572.64
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MAYOR WILL

COMMISSIONER SKJOLDAGER

VICE MAYOR KORNIJTSCHUK

COMMISSIONER MURRAY

COMMISSIONER CARIELLO

ATTEST:

Regular Meeting of November 15, 2023

Adriana Nieves, CMC, Town Clerk

Agenda Item 9 A.

Appointment of Regular Member for the Planning Board

OCT 26 2023



TOWN OF REDINGTON BEACH, FLORIDA

APPLICATION FOR APPOINTMENT TO TOWN BOARD OR TOWN COMMITTEE

NAME: Leslie WilkinsADDRESS: 505 161st Ave Redington Beach, FL 33708HOME PHONE: 727-397-3848 CELL PHONE: _____

EMAIL ADDRESS: _____

How long has Applicant been a Redington Beach resident? 9.75 yrs

SEEKING APPOINTMENT TO: (Check one)

☐ Park Board☒ Planning Board☐ Board of Adjustment☐ Finance Committee☒ Regular Member☐ Alternate**EDUCATIONAL BACKGROUND:**College: Penn State UnivLocation: State College PAMajor: Chem EngrDegree: BS**EMPLOYMENT INFORMATION:**☐ Currently Employed ☒ Retired**Most recent employment:**Employer: Procter & Gamble Phone: _____Address: CETL, Union Centre Blvd City, State, Zip Code: West Chester, OHPosition: Engineering Mgmt How long: 30 yrsWhy do you want to serve on this Board? I wish to continue serving on the Planning Board
to help our town address current issue and prepare for the future.Applicant Signature *Leslie Wilkins* Date 10/25/2023**For Office Use Only:**

Date Considered by Commission: _____ Date of Appointment: _____

Term: _____ Term Expires on: _____

Agenda item 9B.
Resolution 2023-09
FY 2022/2023 Budget Amendments



TOWN OF REDINGTON BEACH
105-164th AVENUE
REDINGTON BEACH, FL 33708
PHONE: 727-391-3875
FAX: 727-397-6911
www.townofredingtonbeach.com

November 15, 2023

To: Mayor and Board of Commissioners

From: Adriana Nieves, CMC, Town Clerk

Re: FY23 Budget Amendments

The General Fund (101) was amended in 2 departments as follows:

\$3,500.00 (512) City Clerk – due to advertising requirements per state statute.

\$8,000.00 (572) Parks and Recreation – Storm debris collection due to Hurricane Idalia which occurred on August 28th, 2023.

\$11,500.00 TOTAL OVERBUDGET DEPARTMENTS

\$11,500.00 (000) This resulted in the Transfer Out (Unrestricted reserves) decreasing by \$11,500.00.

The Capital Fund did not have any budget amendments.

The Stormwater Fund did not have any budget amendments.

Respectfully submitted,

Adriana Nieves, CMC Town Clerk



TOWN OF REDINGTON BEACH

Resolution 2023-09

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING THE 2022-2023 ANNUAL FISCAL YEAR BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR THE TOWN OF REDINGTON BEACH, FLORIDA IN A MEETING DULY ADVERTISED AND REGULARLY ASSEMBLED AS FOLLOWS:

- 1. The Annual Fiscal Year Budget of the Town of Redington Beach, Florida, from October 1, 2022, through September 30, 2023 shall be amended in the amounts and categories as more fully shown by Schedule A and incorporated herein.**
- 2. This Resolution shall take effect upon passage of this Resolution.**

PASSED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF REDINGTON BEACH, FLORIDA, IN REGULAR SESSION THIS 15th Day of November, 2023.

Attest:

By: _____
Adriana Nieves, CMC, Town Clerk

By: _____
David Will, Mayor

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello					
Commissioner Murray					
Commissioner Skjoldager					
Vice Mayor Kornijtschuk					
Mayor Will					

Resolution 2023-09
November 15, 2023

For the Period: 10/1/2022 to 9/30/2023
Fund: 101 - General Fund

Expenditures

Dept: 000

	<u>Original Bud.</u>	<u>Amended Bud.</u>	<u>Change</u>
999.992 Transfer Out (Unrestricted Reserves)	\$ 74,833	\$ 63,333	\$ 11,500

Dept: 512 City Clerk

512.490 Advertsing	\$ 2,500	\$ 6,000	\$ (3,500)
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Dept: 572 Parks and Recreation

572.341 Storm Debris Collection	\$ 10,000	\$ 18,000	\$ (8,000)
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TOTAL EXPENDITURES

<u>87,333.00</u>	<u>87,333.00</u>	<u>0.00</u>
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Agenda item 9C.

First Reading: Ordinance 2023-02: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 10 (Floodplain Management) of the Town Code to Respond to New FEMA Regulations By Revising Regulations Related To Specifying Elevation Requirements For Manufactured Homes In Flood Hazard Areas; Making Related Findings; And Providing For Codification, Severability, And For An Effective Date.

Business Impact Estimate

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING CHAPTER 10 (FLOODPLAIN MANAGEMENT) OF THE TOWN CODE TO RESPOND TO NEW FEMA REGULATIONS BY REVISING REGULATIONS RELATED TO SPECIFYING ELEVATION REQUIREMENTS FOR MANUFACTURED HOMES IN FLOOD HAZARD AREAS; MAKING RELATED FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☒ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare): *The proposed ordinance adopts regulations designed to promote the public health, safety, and general welfare of its citizenry. These regulations are necessary to maintain the Town's current CRS rating of 7 related to manufactured homes in the SFHA, application of the Coastal A zone designation, and other technical amendments.*

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, if any: *There is no direct economic impact of the proposed ordinance.*

(a) An estimate of direct compliance costs that businesses may reasonably incur; *There are no direct compliance costs that businesses may reasonably incur.*

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and *There are no new charges or fees imposed by the proposed ordinance for which businesses will be financially responsible.*

(c) An estimate of the Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs. *The Town will not incur any regulatory costs, nor will it receive any revenue from charges or fees related to the proposed ordinance.*

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *The Town has no businesses which will be likely to be impacted by the proposed ordinance.*

4. Additional information the governing body deems useful (if any):

No additional information.

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING CHAPTER 10 (FLOODPLAIN MANAGEMENT) OF THE TOWN CODE TO RESPOND TO NEW FEMA REGULATIONS BY REVISING REGULATIONS RELATED TO SPECIFYING ELEVATION REQUIREMENTS FOR MANUFACTURED HOMES IN FLOOD HAZARD AREAS; MAKING RELATED FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Florida Statutes Chapter 166, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Town of Redington Beach participates in the National Flood Insurance Program and participates in the NFIP's Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class 7 making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for Town of Redington Beach to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the Federal Emergency Management Agency delineated a limit of moderate wave action on the Flood Insurance Rate Maps and the Town has determined it appropriate to apply coastal high hazard area (Zone V) requirements in areas designated Coastal A Zones to increase resiliency; and

WHEREAS, Chapter 553, Florida Statutes, allows for local administrative and technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

WHEREAS, the Town is adopting a requirement to apply coastal high hazard area requirements to buildings and structures in Coastal A Zones to better protect those buildings and structures and for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to Florida Statutes § 553.73(5) is formatting that requirement to coordinate with the *Florida Building Code*; and

WHEREAS, the Town has determined that it is in the public interest to adopt the proposed local technical amendments to the *Florida Building Code*, and the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with Florida Statutes § 553.73(4).

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Redington Beach that:

Section 1. Chapter 10 (FLOODPLAIN MANAGEMENT) of the Redington Beach Town Code is hereby amended as follows:

Chapter 10 – FLOODPLAIN MANAGEMENT

ARTICLE I. – ADMINISTRATION

Sec. 10-1. In general.

- (a) *Title.* These regulations shall be known as the Floodplain Management Ordinance of the Town of Redington Beach, hereinafter referred to as "this chapter."
- (b) *Scope.* The provisions of this chapter shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.
- (c) *Intent.* The purposes of this chapter and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
 - (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (4) Manage the alteration of flood hazard areas, ~~waterecourses~~, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

- (5) Minimize damage to public and private facilities and utilities;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 - (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 - (8) Meet the requirements of the national flood insurance program for community participation as set forth in the Title 44 Code of Federal Regulations, section 59.22.
- (d) *Coordination with the Florida Building Code.* This chapter is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (e) *Warning.* The degree of flood protection required by this chapter and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood insurance rate maps and the requirements of title 44, Code of Federal Regulations. Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the national flood insurance program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.
- (f) *Disclaimer of liability.* This chapter shall not create liability on the part of the town commission or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

Sec. 10-2. Applicability.

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Areas to which this chapter applies.* This chapter shall apply to all flood hazard areas within the town, as established in subsection 10-2(c) of this chapter.
- (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study, Pinellas County, Florida and Incorporated Areas, dated August 24, 2021, ~~August 18, 2009~~ and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file with Town of Redington Beach Town Hall, 105 164th Avenue, Redington Beach, Florida 33708.
- (d) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to section 10-5 of this chapter the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a

Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the Florida Building Code.
 - (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.
- (e) *Other laws.* The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.
- (f) *Abrogation and greater restrictions.* This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.
- (g) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:
- (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 10-3. Duties and powers of the floodplain administrator.

- (a) *Designation.* The town clerk is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees and professionals as the need may arise.
- (b) *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with the intent and purpose of this chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this chapter without the granting of a variance pursuant to section 10-7 of this chapter.
- (c) *Applications and permits.* The floodplain administrator, in coordination with or as delegated to other pertinent offices and officials of the town, shall:
- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
 - (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;

- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
 - (4) Provide available flood elevation and flood hazard information;
 - (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
 - (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
 - (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this chapter is demonstrated, or disapprove the same in the event of noncompliance; and
 - (8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this chapter.
- (d) *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:
- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this chapter is required.
- (e) *Modifications of the strict application of the requirements of the Florida Building Code.* The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to section 10-7. of this chapter.

- (f) *Notices and orders.* The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.
- (g) *Inspections.* The floodplain administrator shall make the required inspections as specified in section 10-6. of this chapter for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (h) *Other duties of the floodplain administrator.* The floodplain administrator shall have other duties, including but not limited to:
 - (1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to subsection 10-3(d) of this section;
 - ~~(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the state division of emergency management, state floodplain management office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);~~
 - ~~(2)(3)~~ Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, or flood hazard area boundaries, ~~or floodway designations~~; such submissions shall be made within six months of such data becoming available;
 - ~~(3)(4)~~ Review required design certifications and documentation of elevations specified by this chapter and the Florida Building Code to determine that such certifications and documentations are complete;
 - ~~(4)(5)~~ Notify the Federal Emergency Management Agency when the corporate boundaries of the town are modified; and
 - ~~(5)(6)~~ Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the coastal barrier resources system established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on flood insurance rate maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."
- (i) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this chapter and the flood resistant construction requirements of the Florida Building Code, including flood insurance rate maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this chapter; ~~notifications to adjacent communities, FEMA, and the state related to alterations of~~

~~watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained;~~ documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at Town of Redington Beach ~~City Town Hall, 190—173rd Avenue East,~~ 105 164th Avenue, Redington Beach, Florida 33708.

Sec. 10-4. Permits.

- (a) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this chapter and all other applicable codes and regulations has been satisfied.
- (b) *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this chapter for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the national flood insurance program (44 C.F.R. sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this chapter:
 - (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.
 - (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
 - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (8) Temporary housing provided by the department of corrections to any prisoner in the state correctional system.

- (9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.
- (d) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:
- (1) Identify and describe the development to be covered by the permit or approval.
 - (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - (3) Indicate the use and occupancy for which the proposed development is intended.
 - (4) Be accompanied by a site plan or construction documents as specified in section 10-5 of this chapter.
 - (5) State the valuation of the proposed work.
 - (6) Be signed by the applicant or the applicant's authorized agent.
 - (7) Give such other data and information as required by the floodplain administrator.
- (e) *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.
- (f) *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- (g) *Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this chapter or any other ordinance, regulation or requirement of this community.
- (h) *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:
- (1) The Southwest Florida Water Management District; F.S. § 373.036.
 - (2) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and chapter 64E-6, F.A.C.
 - (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

- (4) Florida Department of Environmental Protection for activities subject to the joint coastal permit; F.S. § 161.055.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.

Sec. 10-5. Site plans and construction documents.

- (a) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this chapter shall be drawn to scale and shall include, as applicable to the proposed development:
 - (1) Delineation of flood hazard areas, ~~floodway boundaries and~~ flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
 - ~~(2) Where base flood elevations or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with subsections 10-5(b)(2) or (3) of this section.~~
 - ~~(3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with subsection 10-5(b)(1) of this section.~~
 - (2) (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A Zones, new buildings shall be located landward of the reach of mean high tide.
 - (3) (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (4) (6) Where the placement of fill is proposed. the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 - (5) (7) Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.
 - (6) (8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the state department of environmental protection.
 - ~~(9) Existing and proposed alignment of any proposed alteration of a watercourse.~~

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this chapter but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this chapter.

- ~~(b) Information in flood hazard areas without base flood elevations (approximate zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:~~

- ~~(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.~~
 - ~~(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.~~
 - ~~(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:~~
 - ~~a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or~~
 - ~~b. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet.~~
 - ~~(4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.~~
- (b) (e) Additional analyses and certifications. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (zone V) and Coastal A Zones, the applicant shall submit with the site plan and construction documents an engineering analysis prepared, signed and sealed by a Florida licensed engineer that demonstrates that the proposed alteration will not increase the potential for flood damage. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:
- ~~(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in subsection 10-5(d) of this section and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.~~
 - ~~(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as zone AO or zone AH.~~

- ~~(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in subsection 10-5(d) of this section.~~
- ~~(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.~~
- (c) ~~(d)~~ *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, ~~change floodway boundaries,~~ or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

Sec. 10-6. Inspections.

- (a) *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.
- (b) *Development other than buildings and structures.* The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.
- (d) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:
 - ~~(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or~~
 - ~~(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection 10-5(b)(3)b. of this section, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.~~
- (e) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such

certifications and documentations shall be prepared as specified in section 10-6(d) of this section.

- (f) *Manufactured homes.* The building official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

Sec. 10-7. Variances and appeals.

- (a) *General.* The board of adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S. § 553.73(5), the board of adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to section 3109 of the Florida Building Code, Building.
- (b) *Appeals.* The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision may appeal such decision as provided by general law.
- (c) *Limitations on authority to grant variances.* The board of adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection ~~10-7(f)~~ ~~10-7(g)~~ of this section, the conditions of issuance set forth in subsection ~~10-7(g)~~ ~~10-7(h)~~ of this section, and the comments and recommendations of the floodplain administrator and the building official. The board of adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.
- ~~(d) *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in subsection 10-5(c) of this section.~~
- ~~(d)~~ ~~(e)~~ *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12~~chapter 11~~ Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- ~~(e)~~ ~~(f)~~ *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance ~~meets the requirements of subsection 10-7(d)~~, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

~~(f)~~ ~~(g)~~ *Considerations for issuance of variances.* In reviewing requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

~~(g)~~ ~~(h)~~ *Conditions for issuance of variances.* Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;
- (2) Determination by the board of adjustment that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and

- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Sec. 10-8. Violations.

- (a) *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- (b) *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- (c) *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by state or local law.

ARTICLE II. – DEFINITIONS

Sec. 10-9. General.

- (a) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this section.
- (b) *Terms defined in the Florida Building Code.* Where terms are not defined in this chapter and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.
- (c) *Terms not defined.* Where terms are not defined in this chapter or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Sec. 10-10. Definitions.

Accessory structure. A structure that is clearly subordinate or incidental to, but customarily related to, a principal structure located on the same parcel

~~Alteration of a watercourse.~~ A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1 ½ feet (457 mm) and 3 feet (914 mm). Such areas are seaward of the Limit of Moderate Wave Action shown on the Flood Insurance Rate Map.

Coastal construction control line. The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V zones" and are designated on flood insurance rate maps (FIRM) as zone V1-V30, VE, or V.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year;
or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Engineer of record. A licensed Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for any engineering service or creative work.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before May 7, 1971. [Also defined in FBC, B, section 202.]

~~*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 7, 1971.~~

~~*Expansion to an existing manufactured home park or subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the national flood insurance program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, section 202.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood insurance rate map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

~~*Floodway.* The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Also defined in FBC, B, Section 202.]~~

~~*Floodway encroachment analysis.* An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.~~

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12~~chapter 11~~ Historic Buildings.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

(1) Letter of map amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of map revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) Letter of map revision based on fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional letter of map revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A

CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Limit of Moderate Wave Action. Line shown on FIRMs to indicate the inland limit of the 1 ½-foot (457 mm) breaking wave height during the base flood.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, section 202.]

Manufactured home. A structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. ~~The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsions to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market~~ The value of buildings and structures, excluding the land and other improvements on the parcel. Market value ~~may be established by a qualified independent appraiser.~~ is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the county property appraiser.

New construction. For the purposes of administration of this chapter and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after May 7, 1971 and includes any subsequent improvements to such structures.

~~*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 7, 1971.~~

North American Vertical Datum of 1988 (NAVD 88). The vertical control datum of orthometric height established for vertical control surveying in the United States of America and in Canada based upon the General Adjustment of the North American Datum of 1988.

Park trailer. A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01]

Recreational vehicle. A vehicle, including a park trailer, which is: [See F.S. § 320.01].

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B section 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. [See instructions and notes]

Variance. A grant of relief from the requirements of this chapter, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

~~*Watercourse.* A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.~~

ARTICLE III. – FLOOD RESISTANT DEVELOPMENT

Sec. 10-11. Buildings and structures.

- (a) *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to subsection 10-4(c) of this chapter, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 10-17. of this chapter.
- (b) *Buildings and structures seaward of the coastal construction control line.* If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:
 - (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, building section 3109 and section 1612 or Florida Building Code, Residential Section R322.
 - (2) Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this chapter and ASCE 24.

(c) Florida Building Code technical amendments; Coastal A Zones.

- (1) Non-residential buildings located in Coastal A Zones shall not be permitted to be dry floodproofed and shall not be permitted to have backfilled stem wall foundations.
- (2) Residential buildings located in Coastal A Zones shall not be permitted to have backfilled stem wall foundations.

Sec. 10-12. Subdivisions.

- (a) *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
 - (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
- (1) Delineation of flood hazard areas, ~~floodway boundaries and~~ flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats; and
 - ~~(2) Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with subsection 10-5(b)(1) of this chapter; and~~
 - (2)(3) Compliance with the site improvement and utilities requirements of section 10-13. of this chapter.

Sec. 10-13. Site improvements, utilities and limitations.

- (a) *Minimum requirements.* All proposed new development shall be reviewed to determine that:
 - (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in chapter 64E-6, F.A.C. and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- (c) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in chapter 62-532.500, F.A.C. and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- ~~(d) *Limitations on sites in regulatory floodways.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in subsection 10-5(e)(1) of this chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.~~
- (d)(e) *Limitations on placement of fill.* Subject to the limitations of this chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour.

In addition to these requirements, if intended to support buildings and structures (zone A only), fill shall comply with the requirements of the Florida Building Code.

- ~~(e)~~ (f) *Limitations on sites in coastal high hazard areas (zone V) and Coastal A Zones.* In coastal high hazard areas and Coastal A Zones, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the state department of environmental protection and only if the engineering analysis required by subsection ~~10-5(b)~~ 10-5(e)(4) of this chapter demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with subsection 10-17(e)(3) ~~10-17(h)(3)~~ of this chapter.

Sec. 10-14. Manufactured homes.

- (a) *General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.1049, and shall comply with the requirements of chapter 15C-1, F.A.C. and the requirements of this chapter. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.
- (b) *Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:
- (1) In flood hazard areas (zone A) other than coastal high hazard areas and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this chapter. ~~Foundations for manufactured homes subject to subsection 10-14(f) are permitted to be reinforced piers or other foundation elements of at least equivalent strength.~~
 - (2) In coastal high hazard areas (zone V) and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this chapter.
- (c) *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- (d) *Elevation.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A Zone). ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with subsection 10-14(e) or 10-14(f) of this section, as applicable.~~
- ~~(e) General elevation requirement.~~ Unless subject to the requirements of subsection ~~10-14(f)~~ of this section, all manufactured homes that are placed, replaced, or substantially improved on sites located:
- ~~(1) Outside of a manufactured home park or subdivision;~~

- ~~(2) In a new manufactured home park or subdivision;~~
 - ~~(3) In an expansion to an existing manufactured home park or subdivision; or~~
 - ~~(4) In an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (zone A) or section R322.3 (zone V).~~
- ~~(f) *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to subsection 10-14(e) of this section, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~
- ~~(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (zone A) or section R322.3 (zone V); or~~
 - ~~(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.~~
- ~~(e)(g) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.~~
- ~~(f)(h) *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.~~

Sec. 10-15. Recreational vehicles and park trailers.

- (a) *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - (1) Be on the site for fewer than ~~180~~ 14 consecutive days; or
 - (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- (b) *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in subsection 10-15(a) of this section for temporary placement shall meet the requirements of section 10-14 of this chapter for manufactured homes.

Sec. 10-16. Tanks.

- (a) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

- (b) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection 10-16(c) of this section shall:
 - (1) Be permitted in flood hazard areas (zone A) other than coastal high hazard areas and Coastal A Zones, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
 - (2) Not be permitted in coastal high hazard areas (zone V) and Coastal A Zones.
- (c) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- (d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Sec. 10-17. Other development.

- (a) *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the Florida Building Code, shall:
 - (1) Be located and constructed to minimize flood damage;
 - ~~(2) Meet the limitations of subsection 10-13(d) of this chapter if located in a regulated floodway;~~
 - ~~(2)~~ (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - ~~(3)~~ (4) Be constructed of flood damage-resistant materials; and
 - ~~(4)~~ (5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- ~~(b) *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of subsection 10-13(d) of this chapter.~~

- ~~(e) Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of subsection 10-13(d) of this chapter.~~
- ~~(d) Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of subsection 10-13(d) of this chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of subsection 10-5(e)(3) of this chapter.~~
- (b) (e) Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:
- (1) Structurally independent of the foundation system of the building or structure;
 - (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
 - (3) Have a maximum slab thickness of not more than four inches.
- (c) (f) Decks and patios in coastal high hazard areas (zone V) and Coastal A Zones. In addition to the requirements of the Florida Building Code, in coastal high hazard areas and Coastal A Zones decks and patios shall be located, designed, and constructed in compliance with the following:
- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
 - (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
 - (3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
 - (4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils

and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

~~(d)~~ (g) *Other development in coastal high hazard areas (zone V) and Coastal A Zones.* In coastal high hazard areas and Coastal A Zones, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

~~(e)~~ (h) *Nonstructural fill in coastal high hazard areas (zone V) and Coastal A Zones.* In coastal high hazard areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Where authorized by the state department of environmental protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

Section 2. For purposes of codification of any existing section of the Redington Beach

Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Redington Beach Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the 15th day of November, 2023, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the 6th day of December, 2023, by the Board of Commissioners of the Town of Redington Beach, Florida.

Attest:

Adriana Nieves, CMC, Town Clerk

David Will, Mayor

Agenda item 9D.

Request for Relief 70.51 – 16100 5th St E.

REQUEST FOR RELIEF PURSUANT TO FLORIDA STATUTES 70.51

RECOMMENDATION OF THE SPECIAL MAGISTRATE

TO: TOWN COMMISSION OF THE TOWN OF REDINGTON BEACH, FL

A hearing was held on October, 26, 2023 for review of the deal by the Town of Redington' Beach's Board of Adjustment of an application filed by Keith Koehler and Megan Koehler ("Petitioners") for a variance to permit construction of a dock with boat lift. After hearing, the Board of Adjustment denied the application, finding it was not the minimum necessary for a reasonable use of the property. Petitioners then filed their Request for Relief and submitted a slightly lesser request to the Town through its attorney. When the new plan was not approved, this hearing followed.

The controlling statute requires the Special Magistrate to first mediate the matter. If this is unsuccessful, then the proceeding morphs into an arbitration. The Petitioners submitted to the Special Magistrate their new drawing (amended application) but no other plan was submitted, the Town and its witnesses taking the position that no variance was warranted. The Special Magistrate has reviewed his notes, the document in evidence and the law from which he make the following finds of fact and conclusions of law.

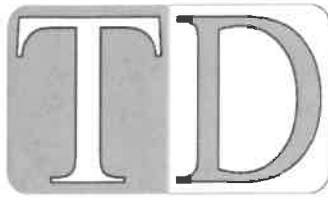
Petitioners were represented by Craig A. Taraszki, Esquire, and the Town by Robert Eschenfelder, Esquire. These lawyers were very well prepared and well versed in this subject matter. They agreed on little, however, except that the Code would permit without variance a triangular dock measuring eleven feet along the seawall and going out some twelve feet. The Special Magistrate and counsel wrestled on how many square feet this constituted and the number forty eight

seemed to be agreed upon. Upon further review, it could be sixty six square feet. This triangular dock would not permit a lift which is critical to the Petitioners.

Mr. Koehler spoke telephonically at the hearing and three citizens spoke in person for her Town. No oath was administered since counsel agreed that this proceeding was to be conducted informally. Mr. Koehler was questioned at length by the Town's attorney. The Town's witnesses essentially argued that no variance was necessary or should be granted. The Town and its witnesses advanced argument that are not particularly persuasive to the Special Magistrate. The fact that Petitioners may rent the property does not disqualify their request for a variance. Neither does the fact that they may have removed said from next to their seawall. Finally, the fact that a dwelling exists on the property does not preclude a dock. None of these assertions are part of the criteria for the granting of a variance. What is persuasive to the Special Magistrate, however, is that the Board of Adjustment found that the Petitioners were entitled to a variance, just not the size they requested. Had the Board not found that the Petitioners had met the other requirements, there would have been no need to address the size of the requested variance. Incidentally, the staff recommendation was for approval of the requested variance. This is not controlling in any sense but it does demonstrate that the request was not frivolous or devoid of any possibility of being approved.. Also, the fact that other variances had been granted for the same setback on similar lots, although not controlling here, is certainly persuasive and probably was a consideration for the staff recommendation for approval.

This is essentially an appeal from the May 22, 2023 Order of the Board of Adjustment denying the variance request due to its size. That is the starting place for the Special Magistrate. There is but one plan in evidence, the Town and its witnesses choosing not to submit a

plan for consideration, relying instead on its argument that a variance



T R A S K
DAIGNEAULT
—LLP—
A T T O R N E Y S

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THOMAS J. TRASK, B.C.S.*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
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ROBERT M. ESCHENFELDER, B.C.S.*
NANCY S. MEYER, B.C.S.*
JEREMY SIMON
MEGAN HAMISEVICZ

** Board Certified by the Florida Bar in
City, County and Local Government Law*

30 July 2023

Re: Florida Statutes § 70.51 Request for Relief of Keith Koehler v. Redington Beach

Special Magistrate Greer,

As you recall, you have graciously agreed to serve as the special magistrate in the “request for relief” proceeding, brought against the Town of Redington Beach pursuant to Florida Statutes § 70.51, by Keith Koehler, owner of an investment property located at 16100 5th Street East, Redington Beach (the Property).

While I believe you have now been provided a copy of the owner’s Request for Relief, Florida Statutes § 70.51(16)(a) requires that the Town file with the special magistrate:

a response to the request for relief with the special magistrate together with a copy to the owner. The response must set forth in reasonable detail the position of the governmental entity regarding the matters alleged by the owner. The response must include a brief statement explaining the public purpose of the regulations on which the development order or enforcement action is based.

THE PUBLIC PURPOSE OF THE TOWN’S SETBACK REGULATIONS:

This is a dispute over setback requirements of the Town of Redington Beach related to dock construction, and the fact that those requirements do not allow the owner to construct a dock in the location, and at a size, he desires to construct on the Property.

As do most all local governments, the Town Code provides for a variety of setbacks related to the development or redevelopment of property. Long ago, the United States Supreme Court noted the practical need for governments to establish setbacks between abutting property owners:

It is hard to see any controlling difference between regulations which require the lot owner to leave open areas at the sides and rear of his house and limit the extent of his use of the space above his lot and a regulation which requires him to set his building a reasonable distance back from the street. Each interferes in the same way, if not to the same extent, with the owner's general right of dominion over his property. All rest for their justification upon the same reasons which have arisen in recent times as a result of the great increase and concentration of population in urban communities and the vast changes in the extent and complexity of the problems of modern city life.

***Gorieb v. Fox*, 274 U.S. 603, 47 S.Ct. 675, 677, 71 L.Ed. 1228 (1927)** (holding that a setback ordinance did not contravene the due process or equal protection clauses of the Fourteenth Amendment). As the Florida Supreme Court noted ***Hardee County v. FINR II, Inc.*, 221 So.3d 1162, 1167 (Fla. 2017)**:

Setbacks can be enforced through restrictive covenants or deed restrictions or imposed by the government through its police power. In holding that setbacks may be accomplished by police power, this Court noted the following:

[S]etback lines ... do not really create an easement in the strict legal sense. No one acquires any right of passage or other use to the exclusion of the owner over that part of the lot upon which buildings or structures are forbidden. The effect of setback lines and open yards and spaces in zoning ordinances is merely to regulate the use of property. It gives no beneficial use to another, except as light and air may rest undisturbed in the space where structures are prohibited. This restriction of use is based upon the exercise of the police power for the general welfare, and is not based on contract rights or the exercise of the power of eminent domain.

City of Miami v. Romer, 58 So.2d 849, 851 (Fla. 1952).

In keeping with these authorities, the public purpose of the Town's setbacks on residential property generally, and with respect to how close docks can be to neighboring lot lines in particular, are:

- To ensure adequate spacing between the property lines of a dock owner and her or his neighbor such that intrusions of watercraft do not occur during launches or storms
- To ensure adequate spacing between the property lines of a dock owner and her or his neighbor such that when the dock owner or owner's contractor is repairing, maintaining or replacing the dock, it or its boats, barges or equipment will not encroach over the lot lines of adjoining neighbors
- To ensure that dock facilities are sufficiently distances from each other such that the individual uses of each owner's dock will not (in terms of noise, visual intrusion or smell) interfere with neighboring dock owners' enjoyment of their own docks
- To create an aesthetic "look" which, both from the land side and on the water, will show roughly uniformly distanced docks which are clearly associated with the lots they belong to
- To discourage disputes and disagreements between neighbors regarding intrusions over lot lines which can more readily occur where dock facilities are too close to a lot line
- To encourage the construction of "right-sized" docks which are designed to better fit the water-facing frontage each lot has
- To better ensure that if a dock which has fallen into disrepair or is otherwise structurally compromised by storm, age, or otherwise, is far enough away from neighboring docks so as to avoid damaging the neighboring dock

TOWN'S POSITION REGARDING VARIANCE DENIAL:

Town's Variance Criteria

Section 6-289(2) of the Town Code provides:

To consider written applications for a variance when it is demonstrated that:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other similarly situated lands, structures, or buildings in the same district; and
- b. A literal interpretation of the provisions of the applicable code would deprive the applicant of rights commonly enjoyed by other similarly situated properties in the same district under the terms of the applicable code.
- c. No variance shall be granted unless the applicant demonstrates by relevant, competent, and substantial evidence that the following criteria have been satisfied:
 1. The property has an unusual hardship not suffered by other similarly situated properties within the same district;
 2. The hardship of the property was not self-created by the applicant and was not the result of an action taken with the applicant's prior knowledge or approval. Further, no variance may be granted arising from illegal construction of a structure or an illegal use of the premises which would otherwise have required a permit to be issued and which construction was commenced illegally. Under such conditions, the property owner shall have no legal right to apply for a variance and the board shall have no legal right to grant a variance;
 3. The requested variance is the minimum variance necessary to permit the reasonable use of the property;
 4. The requested variance will not confer on the applicant any special privilege that is denied by the applicable code to other similarly situated property owners;
 5. The literal interpretation of the applicable code would deprive the applicant of rights commonly enjoyed by other similarly situated property owners;
 6. The requested variance will not be contrary to the public interest and will be in harmony with general intent and purpose of the applicable code.

Criteria Applied to Variance Application

In this case, the owner acquired the Property on July 29th 2020. See, <https://officialrecords.mypinellasclerk.org/Details/GetDocumentByBookPage/OR/21098/2391>.

However, the owner lives at 401 North Howard Avenue, Tampa, Florida, and he does not intend to make the Property his home. Rather, as the Town understands the facts, the Property is not homesteaded (See Pinellas County Property Record 04-31-15-73962-001-0460), and the owner intends to use the property as a vacation rental.

The BOA's May 22nd 2023 order denied the variance because "the requested variance is not the minimum variance necessary to permit the reasonable use of the property."

The BOA's order did not deny the construction of any dock on the Property (which to this point has not even had a dock). The BOA simply determined that the owner's application failed to satisfy each of the factors which need to be satisfied in order to obtain a variance.

The Law of Variances

In land-use law, a variance seeker must demonstrate an exceptional and unique hardship to the individual landowner not shared by other property owners in the area. *Nance v. Town of Indialantic*, 419 So.2d 1041 (Fla. 1982). A variance which permits a use not authorized by existing zoning restrictions for a neighborhood is not justified unless no reasonable use can be made of the land without the variance. *Bernard v. Town Council of Palm Beach*, 569 So.2d 853 (Fla. 4th DCA 1990). See also *Metropolitan Dade County v. Betancourt*, 559 So.2d 1237, 1239 (Fla. 3d DCA 1990) ("Where land is zoned for residential use, deprivation of all beneficial use is proved only when it is established by competent evidence that the land cannot be used for any of the purposes permitted in such district"); *Town of Indialantic v. Nance*, 485 So.2d 1318, 1320 (Fla. 5th DCA) ("the hardship must be such that it renders it virtually impossible to use the land for the purpose for which it is zoned"), *rev. denied*, 494 So.2d 1152 (Fla. 1986); *Thompson v. Planning Comm'n*, 464 So.2d 1231 (Fla. 1st DCA 1985) (hardship may not be found unless there is a showing that under present zoning no reasonable use can be made of property).

In *Nance v. Town of Indialantic*, 419 So.2d 1041 (Fla. 1982), the Florida Supreme Court held that a prerequisite to the granting of a zoning variance is the presence of an exceptional and unique hardship. The hardship cannot be self-created. *Josephson v. Autrey*, 96 So.2d 784 (Fla. 1957). The hardship cannot be one of mere economic disadvantage. See *Metropolitan Dade County v. Reineng Corp.*, 399 So.2d 379 (Fla. 3d DCA 1981).

In this case, the hardship alleged by owner is that he purchased a pie-shaped lot which is larger in the front but narrows in the rear. As to the existence of a hardship in such cases, the Town acknowledge that the mere purchase of land, knowing the shape of that land, does not translate into a self-imposed hardship. For instance, in *City of Coral Gables v. Geary*, 383 So.2d 1127 (Fla. 3d DCA 1980), the city argued that the owner knew what he was buying when he bought the land, but the Court upheld the granting of certain variances based upon the finding that the unusual triangular shape of the property constituted a hardship, because it was virtually impossible to develop the property in accordance with existing regulations.

However, the *Geary* court further explained that the hardship must arise from "circumstances peculiar to the realty alone, unrelated to the conduct or to the self-originated expectations of any of its owners or buyers." *Coral Gables v. Geary*, 383 So.2d at 1128. Emphasis added. That is relevant in this case because owner did not purchase the Property to live in it. He purchased it in order to use it as a vacation rental. Part of that vision was that he would place a large dock on the

Property so as to accommodate watercraft which vacation renters would like to use, thus increasing his profits. That added desire to maximize the profitability of the Property is the kind of self-imposed hardship which supports denial of a variance. For instance, in ***Green v. City of Miami*, 107 So.2d 390 (Fla. 3d DCA 1958)**, the buyer bought property intending to use it to sell alcohol. But a variance would be needed to do so. The court ruled that the city's grant of the variance was invalid because the hardship was self-created because the owner knew of the restricted zoning ordinance prior to the acquisition of a beverage license. Accord, ***Crossroads Lounge, Inc. v. City of Miami*, 195 So.2d 232 (Fla. 3d DCA 1967)**.

It is noteworthy, as well, that owner's lot is not all that unique. As the map below depicts, Redington Beach (as does its sister Redingtons to the north) has a series of fingers and inlets which afford waterfront views for the maximum number of owners. That's how the Town was envisioned by Charles Redington many decades ago. But the simple fact of the matter is that when you curve residential neighborhoods around waterways, you will create some lots which are narrower in front and wider on the water, and (as is the case with owner's lot), wider at the front and narrower in the rear. Owner's lot is not the only lot within the Town with a pie-shape narrowing toward the rear.



As the court in ***Board of Adjustment of City of Ft. Lauderdale v. Kremer*, 139 So.2d 448, 451 (Fla. 2d DCA 1962)** noted:

The difficulty or hardship of an applicant for a variance, to entitle him thereto, must be special or unique in contrast with that of other property owners in the same district. If the hardship is common to the whole neighborhood, the remedy is to seek a change in the ordinance rather than a variance.

As to the view of neighbors, “neighbors and their attitudes change from time to time while the variance does not.” ***Town of Ponce Inlet v. Rancourt*, 627 So.2d 586, n. 1 (Fla. 5th DCA 1993)**. Therefore, “[t]he agreement of neighbors should not be a sufficient or sound basis to allow a variance although it could be a consideration in a close case” ***Rancourt*, n. 1**, and objections of neighbors, alone, have also been determined to be insufficient to deny a zoning application. ***Pollard v. Palm Beach County*, 560 So.2d 1358 (Fla. 4th DCA 1990)**. However, neighboring property owners have a right to rely on existing zoning conditions and they had a right to a

continuation of those conditions in the absence of a showing that a variance was necessary. *Friedland v. City of Hollywood*, 130 So.2d 306 (Fla. 2d DCA 1961).

The need to adhere to all six of the variance criteria before granting a variance was discussed in the case of *Wolk v. Board of County Com'rs. of Seminole County*, 117 So.3d 1219, 1224 (Fla. 5th DCA 2013), wherein the court noted:

The BOA clearly applied the six criteria in concluding that the variance application should be denied. The Board, on the other hand, did not, and there is nothing in this record or the order rendered by the Board to indicate otherwise. Rather, the Board concluded that a variance should be granted and then concluded that it was not necessary. *** We believe that the methodology utilized by the Board and approved by the circuit court of granting a variance in violation of the Code provisions yet concurrently concluding that the variance is not necessary is wrong, and its use needs to stop. Otherwise, others will be encouraged to employ the same or similar methods to work their will without regard to applicable laws and ordinances. Such methods not only disregard valid laws, they deprive others living in the neighborhood and surrounding areas of the valid application of ordinances that ensure the landscape of the neighborhood is kept in conformity with orderly growth and development. We conclude that the circuit court applied the wrong law, resulting in a miscarriage of justice. We grant the Petition and quash the order under review.

In this case, the BOA expressly found that the requested variance was not the minimum necessary to permit the reasonable use of the property. Here, while owner's Request for Relief does not alert the special magistrate to the fact, the Property in question has not heretofore had a dock. And yet, for decades, it has been quite successfully used as a residence. While owner may argue, "but I need to be able to have a dock", the "minimum variance" criteria looks at the property as a whole, not just the feature the owner seeks to build or install.

As noted in American Law of Zoning, § 13.6, *Variances*: "In determining whether there is sufficient proof to support a variance, the courts will not accept proof of a lack of reasonable return which relates to only a portion of the property." As the foreign case *Catholic Social Services Housing Corp. v. Zoning Hearing Bd. of Edwardsville Borough*, 18 A.3d 404 (Pa. Commw. Ct. 2011) noted: "merely because the property falls within two different boroughs and is subject to different zoning ordinances does not lessen the standard that the property as a whole must be rendered near valueless before a use variance can be granted." As noted in Am. Jur. 2d § 812, *Variance limited to minimum necessary for relief*:

It is improper for a zoning board to grant relief without addressing the important consideration of whether the requested variance is the minimum which will afford relief. Because a variance affords relief from the literal enforcement of a zoning ordinance, it will be strictly construed to limit relief to the minimum variance which is sufficient to relieve the hardship.

American Law of Zoning, § 13.18, *Variance factors—Minimum variance necessary* states:

In determining the minimum variance necessary, the primary inquiry is whether the purpose of the proposed development and the alleviation of the property owner's hardship could reasonably be achieved through smaller development plans. The failure to consider

the minimum variance necessary may be grounds for the reversal of a variance decision, even if the board relied on other relevant variance criteria in making its decision.

So, for instance, in *Sheppard v. Zoning Bd. of Appeal of Boston*, 81 Mass. App. Ct. 394, 963 N.E.2d 748 (2012), the court ruled:

It is uncontested that McGarrell purchased the property for the very purpose of living there in a home of the size and configuration of the old house. This establishes a baseline for reasonable use of the property, absent proof of what change in circumstances rendered the former intended use of the property no longer reasonable In light of McGarrell's failure to demonstrate that he could make a reasonable use of the property only by building a larger house, the construction of the larger house would require more than the 'minimum variance' needed for a reasonable use if it would increase noncompliance with the zoning code.

And, in *Baumer v. City of Jennings*, 247 S.W.3d 105 (Mo. Ct. App. E.D. 2008), the court spoke to the issue as follows:

We further note that Petitioner did not meet his burden and prove that the requested 10-foot variance was the 'minimum variance necessary' ... Petitioner's counsel conceded on more than one occasion during the variance hearing that Petitioner was requesting a 10-foot variance, but would accept a smaller variance of 5 feet. Petitioner's counsel, however, also suggested ... that if the Board would approve a variance with the minimum amount of 5 feet, a slightly larger variance was not 'that much more excessive or that much more of a problem.' These statements, combined with a Board member's comment at the hearing that Board did not know the minimum variance necessary for Petitioner's garage, signal to this Court that Petitioner did not meet his burden and identify the 'minimum variance necessary.' Thus, Board did not abuse its discretion in denying Petitioner's variance.

Likewise, in *In re Mutschler, Canning and Wilkins*, 180 Vt. 501, 2006 VT 43, 904 A.2d 1067 (2006), the court ruled:

In this case, a professional office would require smaller setbacks and thus represent less deviation from the zoning bylaws, and applicant does not articulate an adequate explanation for why this lesser variance does not afford relief. To the contrary, the record reveals that the variance obtained by applicant would enhance the efficiency of his business, but not that his business would be unsustainable without a variance allowing light industry. We therefore conclude that the record is insufficient to support the court's conclusion that the variance granted is the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

Finally, in *Jackson v. City of Woonsocket Zoning Bd. of Review*, 2016 WL 6833203 (R.I. Super. Ct. Nov. 15, 2016), the court ruled:

The Board determined that the relief sought by Appellant was not the least relief necessary The stated purpose of Jackson's application was to respond to privacy, security, emissions, and noise concerns. The Board noted in its Decision there was an absence of evidence to demonstrate why a six-foot fence as opposed to a permitted three-foot fence

would meet these goals. Furthermore, the Board opined that exhaust fumes and noise likely would penetrate the proposed fence no matter the size; therefore, the Board concluded that Appellant was not seeking the least relief necessary.

In addition to these judicial authorities, the Town notes that in his February 7th 2023 variance application, owner was asked to state to the BOA why the variance was the “minimum necessary.” His response was:

The proposed dock facilities would be allowable without the need for a variance if he property was a typical, 60-foot wide rectangular-shaped lot found within the zoning district and platted subdivision. The requested variance is the minimum necessary to build dock facilities in such a configuration that can be reasonably enjoyed and consistent with others in the district. The Town previously determined that the same 6-inch setbacks granted for dock facilities at 16101 5th Street East and 16106 6th Street East were in harmony with the general purpose and intent of the code and not injurious to the neighborhood or otherwise detrimental to the public welfare.

Setting aside that owner’s statement as to what the Town’s BOA has previously approved is not totally correct (minutes will show one of these properties was denied a dock variance by the BOA), this entire paragraph does not even speak to the actual “minimum required” factor. Rather, it reaches back into some of the other variance criteria such as whether the variance would be “contrary to the public interest”, or whether the lot has “unique conditions” which would support a variance. The fact that the owner could not even come up himself with a statement as to why the size and location of dock he proposes was the *minimum necessary* to permit the reasonable use of the property is telling.

Not every waterfront home is entitled as a matter of law to a dock. Many waterfront homes can be reasonably used as a residence without a dock.

In conclusion, when the special magistrate conducts the hearing, he will hear testimony to the effect that the house on the Property has for decades been used as a residential home without incident. He will also hear testimony that a dock, albeit of a modest size, can be built on the Property without any variance at all. Finally, the owner himself will admit that the variance he requested was more extensive than even he would now accept.

Owner points to other docks in the Town which he asserts were “permitted.” However, providing the special magistrate with copies of Pinellas County dock permits is irrelevant inasmuch as it is clear that Pinellas County does not issue building permits for the Town. Pinellas County’s permitting function as to docks relates to the County’s role in overseeing environmental impacts of docks in the County’s water. Thus, what matters is not that applicants convince Pinellas County that a dock’s impacts at the County level will be acceptable, but instead whether the applicant can convince the Town’s BOA that the six variance criteria have been met.

Further, while the existence of other variance back in time can be one fact among many to consider, the courts have confirmed that each case stands on its own merits and prior similar variances will not be dispositive. See, *Herrera v. City of Miami*, 600 So.2d 561, 563 (Fla. 3rd DCA 1992) (on review of an administrative grant of a zoning variance, the standard is not whether variances have

been granted to similarly-situated applicants in the community, or whether the grant of the variance would have a deleterious impact on the surrounding area).

While the Town will further develop its factual and legal arguments at the hearing and in any requested post-hearing briefs or proposed orders, the Town believes that it has sufficiently set forth its position, which is that the BOA's decision to deny the variance request is supported by the law.

NEXT STEPS/LOGISTICAL ISSUES:

In addition to such persons as you may subpoena under Florida Statutes § 70.51(14), pursuant to Florida Statutes § 70.51(12), the Town Clerk has compiled the list of those persons who own land contiguous to the owner's property and those persons who are substantially affected and who have requested to participate in the hearing in this matter.

While Florida Statutes § 70.51(15)(a) provides that the special magistrate "shall hold a hearing within 45 days after his or her receipt of the request for relief", that subsection also allows "a different date [to be] agreed to by all the parties." The Town requests that you conduct a pre-hearing case management conference wherein counsel for the owner and the Town can discuss with you possible hearing dates, any need for witness subpoenas, and any other related logistical issues.

Counsel for the Parties look forward to your feedback on how and when to proceed to the hearing.

Respectfully,

Robert Eschenfelder

Robert Eschenfelder, Esq.

c: Adriana Nieves—Redington Shores Town Clerk
 Bruce Cooper—Redington Beach Building Official
 Craig Taraszki—counsel for owner

IN RE:

REQUEST FOR RELIEF PURSUANT TO SECTION 70.51, FLORIDA STATUTES

KEITH KOEHLER & MEGAN KOEHLER

I. INTRODUCTION

Keith Koehler and Megan Koehler (collectively, the “**Petitioners**”) hereby file their Request for Relief pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes (the “**Act**”). The Petitioners are seeking to have a Special Magistrate review the May 18, 2023 decision of the Board of Adjustment (the “**BOA**”) of the Town of Redington Beach, Florida (the “**Town**”), denying Petitioners’ application for certain variances from the setback requirements prescribed in Sections 5-57(a)(3)(a), 5-57(a)(3)(b) and 5-57(a)(3)(g) of the Town’s Code of Ordinances (the “**Code**”) for the construction of a private dock (the “**Dock**”) at 16100 5th Street East, Redington Beach, FL 33708 (the “**Property**”).

The basis for the Petitioners’ request for relief is that the Town’s denial of their application for variances (collectively, the “**Variances**”) unreasonably and unfairly burdens the use of Petitioners’ real property, in accordance with Section 70.51(3), Florida Statutes. The Town’s action in denying the Variances departed from the essential requirements of the law and was not supported by competent and substantial evidence.

Therefore, the Petitioners seek to have a Special Magistrate designated in this proceeding attempt to facilitate a resolution of this matter through a mediated settlement conference with the Town. In the event that an acceptable resolution cannot be achieved, the Petitioners will request that the Special Magistrate consider the factual circumstances and evidence surrounding the Town's denial of the Variances and render a determination that the Town's denial of the Variances unreasonably and unfairly burdens the use of Petitioners' property and recommend such relief that will protect the Petitioners' interests in accordance with those laws and regulations afforded other similarly situated property owners in the Town. If this process should fail to resolve this matter, the Petitioners reserve the right to seek judicial review in accordance with Section 70.51(10)(a), Florida Statutes.

II. THE PARTIES

The Petitioners are the fee simple owners of the Property. The Warranty Deed recorded July 29, 2020, in Book 21098, Page 2391, of the Official Records of Pinellas County, Florida, evidencing Petitioners' ownership of the Property is attached hereto as **Exhibit "A"**.

The respondent Town is a political subdivision of the State of Florida.

III. JURISDICTION

On May 18, 2023, the BOA held a quasi-judicial, public hearing (the "**Hearing**") to consider Petitioners' application and denied the Variances at the conclusion of such Hearing.

Pursuant to Section 70.51(2)(b), Florida Statutes, a "development permit" is defined to include any building permit, zoning permit, subdivision approval, certification, special exception, *variance* or any other similar action of local government, as well as any other permit authorized to be issued under state law by state, regional, or local government which has the effect of authorizing the development of real property including, but not limited to, programs implementing Chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403, Florida Statutes. Section 70.51(2)(a), Florida Statutes, defines a "development order" to mean any order, or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, *denying*, or granting with conditions an application for a development permit. In addition, Section 70.51(10)(a), Florida Statutes requires that prior to initiating a Special Magistrate proceeding seeking review of a local development order, the owner must exhaust all non-judicial local government administrative appeals.

The Petitioners have the requisite standing to petition for the relief provided for under the Act as the Variances qualify as a "development permit" and the Town's denial of the Variances constitutes a "development order," as defined therein. Further, because the BOA's denial of the Variances is considered a final action of the Town, there are no non-judicial local government administrative appellate remedies available to the Petitioners. Due to the finality of the BOA's action, the only remedy that could be sought by the Petitioners is judicial relief.

The Petitioners have further qualified for relief under Section 70.51(3), Florida Statutes, by timely filing this Request for Relief within thirty (30) days of Petitioners' receipt of the development order. In accordance with Section 70.51(10)(a), Florida

Statutes, the Petitioners' filing of its Request for Relief and initiation of the Special Magistrate proceedings hereunder, seeking review of the Town's denial of the Variances, effectively tolls the time for seeking judicial review by the Petitioners until such time as the Special Magistrate's recommendation is issued and acted upon by the Town.

IV. SUMMARY OF THE TOWN'S DEVELOPMENT ORDER

On or about March 30, 2023, the Petitioners submitted their application for the Variances which was supplemented on April 12, 2023, a copy of which is attached hereto as **Exhibit "B"** (the "**Application**").

In response to the Application, the Town's Building Official ("**Staff**") issued a report on May 10, 2023, a copy of which is attached hereto as **Exhibit "C"** (the "**Staff Report**"), concluding that the Application satisfied the required criteria for granting of variances set forth in Sec. 6-289 of the Code (the "**Criteria**") and recommending approval of the Variances.

During the Hearing, the Staff Report was entered into the record and Staff provided testimony consistent with the Staff Report expressing their recommendation that the BOA approve the Variances.

During the Hearing, the Application and oral testimony provided by Petitioners and their counsel were introduced into the Hearing record as substantial and competent evidence demonstrating conformance with the Criteria and justifying approval of the Variances, including evidence that the BOA had previously approved similar variances

for similarly situated properties within the Town located at 16101 5th Street East and 16106 6th Street East.

During the Hearing, certain other individuals owning property in the Town objected to the Variances, opining that Petitioners were not entitled to construct the Dock and that it would create navigation hazards; however, no substantial and competent evidence was presented in support of such opinions or that the Application failed to conform to the Criteria.

The BOA denied the Variances at the conclusion of the Hearing. The Town issued a written order confirming such denial on May 23, 2023, a copy of the email transmittal to Petitioners' counsel and the order attached thereto is attached hereto as **Exhibit "D"**.

V. IMPACT OF DEVELOPMENT ORDER ON PROPOSED USE OF THE PROPERTY

The denial of the Variances prohibits the construction of the Dock and unreasonably and unfairly burdens the use of Petitioners' Property and denies them the reasonable use afforded to other similarly situated properties.

VI. RESERVATION OF RIGHTS

The Petitioners reserve their right to supplement this Request for Relief and to provide any and all information that may be relevant to the Special Magistrate's ultimate determination in this matter.

VII. REQUEST FOR RELIEF

Based on the foregoing, the Petitioners hereby request that the Special Magistrate conduct a hearing to determine the unreasonableness of the Town's denial of the Variances and the resultant unfair burdens imposed on the Petitioners' Property, recommend to the Town that it approve the Variances, or other such relief deemed just and equitable under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been hand-delivered to the Town of Redington Beach to the attention of the Town Clerk, 105 164th Avenue, Redington Beach, FL 33708; with a copy of the foregoing furnished via e-mail to the parties listed below, this 21st day of June, 2023:

- David Will, Town Mayor [mayor@townofredingtonbeach.com]
- Adriana Nieves, Town Clerk [townclerk@townofredingtonbeach.com]
- Dee Runyon, Deputy Town Clerk [deputyclerk@townofredingtonbeach.com]
- Robert Eschenfelder, Town Attorney [rob@cityattorneys.legal]



Craig A. Taraszki, Esq.
FBN: 107765
Johnson, Pope, Bokor, Ruppel & Burns,
LLP
490 1st Avenue South, Suite 700
St. Petersburg, FL 33701
Phone: (727) 999-9900
Email: craigt@jpfirm.com
Attorney for Petitioners

EXHIBIT "A"

DEED

Prepared by and return to:
Bayshore Title
3431 Henderson Blvd.
Tampa, Florida 33609
BY81 2007012

Consideration: \$ 681,500.00
Documentary Stamps: \$ 4,767.00

Parcel ID Number: 04-31-15-73962-001-0460

The property being hereby conveyed, is not now, nor has it ever been, nor was it ever intended to be the homestead of the grantor, the grantor's spouse, and/or minor children, if any. Nor is it contiguous with or adjacent to such homestead. The grantor's residence is at the street or post office address designated below.

Warranty Deed

This Warranty Deed, made and executed the 29 day of July, 2020, by Lesley Whetton, the, whose post office address is 37 Tong Lane, Bradford BD4 0RT, England, United Kingdom, (hereinafter referred to as "Grantor") to Keith Koehler and Megan Koehler, husband and wife, whose post office address is 401 N. Howard Ave., Tampa, FL 33606 (hereinafter referred to as "Grantee").

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That Grantor, for herself, her successors and assigns, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by Grantor, has granted, bargained, and sold, to Grantee, and Grantee's successors and assigns forever, the following described real property located in Pinellas County, Florida, to-wit:

Lot 46, Block 1, SIXTH ADDITION TO REDINGTON BEACH HOMES, according to the plat thereof, as recorded in Plat Book 31, Page(s) 29, of the Public Records of Pinellas County, Florida.

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2020 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

WARRANTY DEED
PAGE TWO

And Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said land in Fee Simple; that Grantor has good right and lawful authority to sell and convey said land; that Grantor hereby fully warrants title to said land and will defend the same against the lawful claims and demands of all persons whomsoever, and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2019, restrictions and easements of record, if any.

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed as of the date and year first stated above.

BY: Lesley Whetton
Lesley Whetton

WITNESSES:
Signed, sealed and delivered in our presence:

L
Signature
LOUISE KELLY MORLEY
Printed Name

CHRISTOPHER HUGH PATRICK ATKINSON
Signature
Printed Name

COUNTRY OF ENGLAND

COUNTY OF WEST YORKSHIRE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of July, by Lesley Whetton, who is:

Personally known to me
☒ Produced UK DRIVING LICENCE as identification.

Notary Public

My Commission Expires: 10/31/2020 (SEAL)

CHRISTOPHER HUGH PATRICK ATKINSON
NOTARY PUBLIC

EXHIBIT "B"
APPLICATION



**JOHNSON
POPE**

Craig A. Taraszki, Esq.
490 1st Avenue South, Suite 700
St. Petersburg, Florida 33701
Telephone: (727) 999-9900
Email: CraigT@JPFirm.com

COUNSELORS AT LAW

TAMPA ■ CLEARWATER ■ ST. PETERSBURG

File No. 072921.151234

March 30, 2023

VIA HAND DELIVERY

Town Clerk
Town of Redington Beach
105 164th Avenue
Redington Beach, FL 33708

Re: **Variance Application – Dock Setbacks**
Keith & Megan Koehler
16100 5th Street East
Parcel No. 04-31-15-73962-001-0460

MAR 30 2023


Dee Runyon
Deputy Clerk

On behalf of our clients, Keith & Megan Koehler (the “Applicant”), please find attached the following documents in support of the above-referenced variance application:

1. One (1) copy of the completed Variance Application (General Information, Variance Criteria Narrative and Affidavit);
2. One (1) copy of the proposed dock plan and profile;
3. One (1) copy of the Warranty Deed for the subject property recorded July 29, 2020, in Book 21098, Page 2391, of the Public Records of Pinellas County, Florida;
4. One (1) copy of the plat of Sith Addition to Redington Beach Homes (with subject property identified), recorded in Plat Book 31, Page 29, of the Public Records of Pinellas County, Florida (the “Plat”);
5. One (1) copy of an enlarged excerpt of the Plat depicting the subject property;
6. One (1) copy of Permit No. P36485-05 for the dock at 16101 5th Street East;
7. One (1) copy of Permit No. P41023-09 for the dock at 16106 6th Street East; and
8. Check for \$250.00 payable to Town of Redington Beach.

The variance is requested to allow side setbacks of 6 inches for the proposed dock facilities where 7 feet 6 inches is required by the Town’s Code. Please confirm your receipt and contact me if you have any questions or require any additional information or documents.

Regards,

JOHNSON, POPE, BOKOR, RUPPEL & BURNS, LLP



Craig A. Taraszki

Attachments

cc: Applicant

TOWN OF REDINGTON BEACH, FLORIDA
VARIANCE APPLICATION

(Please type or print clearly)

Property Owner(s)

Name Keith Koehler & Megan Koehler		Email	
Address 401 N. Howard Ave			
City Tampa		State FL	Zip 33606
Phone	Fax	Cellular	

Applicant

Name Keith Koehler & Megan Koehler		Email	
Address 401 N. Howard Ave			
City Tampa		State FL	Zip 33606
Phone	Fax	Cellular	

Agent (if applicable)

Name Craig Taraszki, Esq. (Johnson Pope)		Email craigt@jpfirm.com	
Address 490 1st Ave South, Suite 700			
City St Petersburg		State FL	Zip 33701
Phone 727-999-9900	Fax	Cellular	

General Information

Property Location or Address 16100 5th Street East	
Legal Description (attach additional sheet if necessary) Lot 46, Block 1, SIXTH ADDITION TO REDINGTON BEACH HOMES, according to the plat thereof, as recorded in Plat Book 31, Page(s) 29, of the Public Records of Pinellas County, Florida.	
Tax Parcel Number 04-31-15-73962-001-0460	Zoning District District 2

Requested Action:

Describe request and applicable code section:

Proposed dock facilities, including boatlift, located 6 inches from the waterward projection of the side lot lines, as depicted on the attached plan.

Required LDC Regulation(s): [list all that apply]

Sec. 5-57(a)(3)a, b, and g.

**TOWN OF REDINGTON BEACH
VARIANCE APPLICATION**

1. *What special conditions or circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other similarly situated lands, structures or buildings in the same district?*

The subject land is described as Lot 46, Block 1, Sixth Addition to Redington Beach Homes, according to the plat thereof, as recorded in Plat Book 31, Page 29, of the Public Records of Pinellas County, Florida (see attached deed). The geometry of the land is triangular or "pie-shaped," with the parcel narrowing from approximately 120 feet wide at the 5th Street East right-of-way to only approximately 25 feet wide at the waterfront (see attached plat). The majority of parcels within District 2 of the Town and the platted subdivision are rectangular in shape. The triangular shape of the subject parcel results in a narrow waterfront and sharply converging waterward projections of the side property lines. Since the code regulating the location of the dock facilities measures setbacks relative to the waterfront width and extended side property lines, such regulations have a disproportionate effect on the applicant's ability to build dock facilities enjoyed by others within the same district.

2. *What literal interpretation of the provisions of the applicable code would deprive the Applicant(s) of rights commonly enjoyed by other similarly situated properties in the same district under the terms of the applicable code?*

The literal enforcement of the setback requirements of the code disproportionately impacts the applicant's property in comparison to others in the same district due to its unique triangular geometry. Due to the narrow waterfront width and acute angle established by the converging side property lines, the literal enforcement of such setbacks would deprive the applicant of full use of their property by establishing an allowable footprint for dock facilities that would be too small for their reasonable and expected use.

3. *What special conditions or circumstances entitles the Applicant to a variance that are NOT self-created by the Applicant or an action taken with the Applicant's prior knowledge or approval?*

The shape of the parcel was established by the plat recorded September 29, 1952. The applicant purchased the parcel on July 29, 2020; therefore, the shape was not self-created and not the result of an action taken with the applicant's prior knowledge or approval.

4. *Explain how the granting of the variance will not confer on the Applicant any special privilege that is denied by the applicable code to other similarly situated lands, structures or buildings in the same district.*

The applicant is requesting dock facilities that are consistent and compatible with others in the same district. There are two properties within the district and immediate neighborhood that enjoy dock facilities with the same 6-inch side setbacks: 16101 5th Street East and 16106 6th Street East (see attached permits).

5. *Explain how the variance requested is the minimum variance necessary to permit the reasonable use of the lands, structures or buildings, will be in harmony with the general*

purpose and intent of the applicable code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The proposed dock facilities would be allowable without the need for a variance if the property was a typical, 60-foot wide rectangular-shaped lot found within the zoning district and platted subdivision. The requested variance is the minimum necessary to build dock facilities in such a configuration that can be reasonably enjoyed and consistent with others in the district. The Town previously determined that the same 6-inch setbacks granted for dock facilities at 16101 5th Street East and 16106 6th Street East were in harmony with the general purpose and intent the code and not injurious to the neighborhood or otherwise detrimental to the public welfare.

Note: No variance may be granted arising from illegal construction of a structure or an illegal use of the premises which would otherwise have required a permit to be issued and which construction was commenced illegally. Under such conditions, the property owner shall have no legal right to apply for a variance and the Board shall have no legal right to grant a variance.

Section 6-290(g): Any variance granted under the provisions of this code shall expire within sixty (60) days from the date of the executed order granting the variance unless a building permit for construction or alteration has been issued in accordance with the plans and conditions upon which the variance was granted.

**TOWN OF REDINGTON BEACH, FLORIDA
VARIANCE APPLICATION
AFFIDAVIT**

I (we), the undersigned, certify ownership of the property within this application, that said ownership has been fully divulged, whether such ownership by contingent or absolute, and that the name of all parties to an existing contract for sale or any options are filed with this application.

I (we) certify that Craig Taraszki, Esq. and attorneys of Johnson, Pope, Bokor, Ruppel & Burns, LLP is/are duly designated as the agent(s) for the owner, that the agent(s) is (are) authorized to provide subject matter on the application contained herein, whether verbal or written, and appear at any public hearings(s) involving this petition. Further, it is understood that this application must be complete and accurate, and the appropriate fee paid prior to processing.

Date: 2/07/23 Title Holder: [Signature]
Keith Koehler

Date: 2-7-23 Title Holder: [Signature]
Megan Koehler

STATE OF FLORIDA)
COUNTY OF PINELLAS)

SWORN TO AND SUBSCRIBED before me, by means of ☒ physical presence or ☐ online notarization, this 7th day of February, 2023, by Keith Koehler, who ☐ is personally known to me or ☒ has produced FL Drivers License as identification and who did (did not) take an oath.

[Signature]
Notary Public
My Commission Expires: 10/6/25



KATHRYN K. TURLEY
Commission # HH 182140
Expires October 6, 2025
Bonded Thru Budget Notary Service

STATE OF FLORIDA)
COUNTY OF PINELLAS)

SWORN TO AND SUBSCRIBED before me, by means of ☒ physical presence or ☐ online notarization, this 7th day of February, 2023, by Megan Koehler, who ☐ is personally known to me or ☒ has produced FL Drivers License as identification and who did (did not) take an oath.

[Signature]
Notary Public
My Commission Expires: 10/6/25



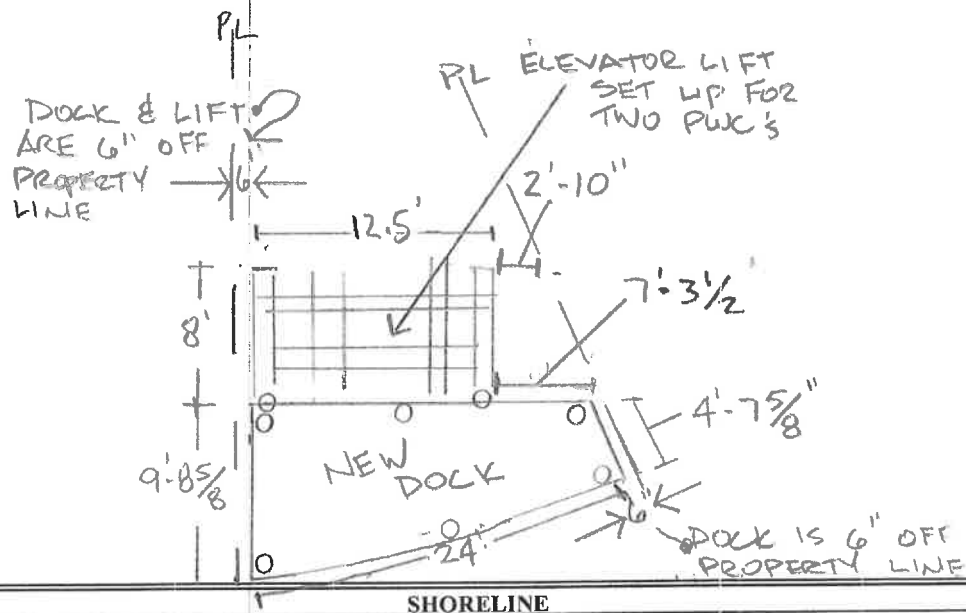
KATHRYN K. TURLEY
Commission # HH 182140
Expires October 6, 2025
Bonded Thru Budget Notary Service

Owner Name: KOEHLER Site Address: 16100 5th St E

Nature and Size of Project: BUILD NEW 170 sq DOCK & 3K
ELEVATOR LIFT SET UP FOR TWO PWC'S

Total Project Square Footage:	<u>170</u>	New Square Footage:	<u>170</u>
Total Number of Pilings:	<u>8</u>	Diameter of Pilings:	<u>10"</u>
Waterway Width	<u>420'±</u>	Waterfront Width	<u>25</u>

Plan View Drawing
(applicant and adjacent docks)

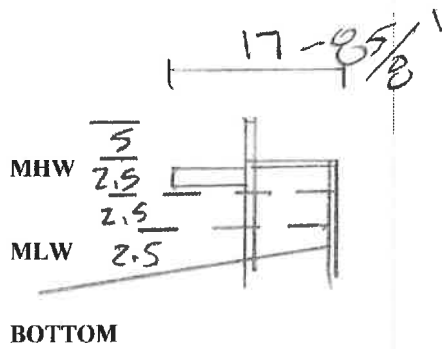


The undersigned does not object to the proposed project as drawn in the space provided above.			
Left Owner		Right Owner	
Signature	Date	Signature	Date
Municipality Approval		Water and Navigation Approval	

Owner Name : KOEHLER

Site Address: 16100 5th ST E

Profile View Drawing



Prepared by and return to:
Bayshore Title
3431 Henderson Blvd.
Tampa, Florida 33609
BY81 2007012

Consideration: \$ 681,500.00
Documentary Stamps: \$ 4,767.00

Parcel ID Number: 04-31-15-73962-001-0460

The property being hereby conveyed, is not now, nor has it ever been, nor was it ever intended to be the homestead of the grantor, the grantor's spouse, and/or minor children, if any. Nor is it contiguous with or adjacent to such homestead. The grantor's residence is at the street or post office address designated below.

Warranty Deed

This Warranty Deed, made and executed the 29 day of July, 2020, by Lesley Whetton, the, whose post office address is 37 Tong Lane, Bradford BD4 0RT, England, United Kingdom, (hereinafter referred to as "Grantor") to Keith Koehler and Megan Koehler, husband and wife, whose post office address is 401 N. Howard Ave., Tampa, FL 33606 (hereinafter referred to as "Grantee").

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That Grantor, for herself, her successors and assigns, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by Grantor, has granted, bargained, and sold, to Grantee, and Grantee's successors and assigns forever, the following described real property located in Pinellas County, Florida, to-wit:

Lot 46, Block 1, SIXTH ADDITION TO REDINGTON BEACH HOMES, according to the plat thereof, as recorded in Plat Book 31, Page(s) 29, of the Public Records of Pinellas County, Florida.

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2020 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

WARRANTY DEED
PAGE TWO

And Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said land in Fee Simple; that Grantor has good right and lawful authority to sell and convey said land; that Grantor hereby fully warrants title to said land and will defend the same against the lawful claims and demands of all persons whomsoever, and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2019, restrictions and easements of record, if any.

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed as of the date and year first stated above.

BY: Lesley Whetton
Lesley Whetton

WITNESSES:

Signed, sealed and delivered in our presence:

Louise Kelly Morley
Signature

Louise Kelly Morley
Printed Name

Christopher Hugh Patrick Atkinson
Signature

CHRISTOPHER HUGH PATRICK ATKINSON
Printed Name

County OF ENGLAND

County OF WEST YORKSHIRE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of July, by Lesley Whetton, who is:

☐ Personally known to me
☒ Produced UK DRIVING LICENCE as identification.

Christopher Hugh Patrick Atkinson
Notary Public

My Commission Expires: 10/31/2020 (SEAL)

CHRISTOPHER HUGH PATRICK ATKINSON
NOTARY PUBLIC

2

Suite E7.3
Joseph's Well
Park Lane
Leeds
West Yorkshire
LS3 1AB ENGLAND
T. 0113 816 0116
M. 0774 590 8747

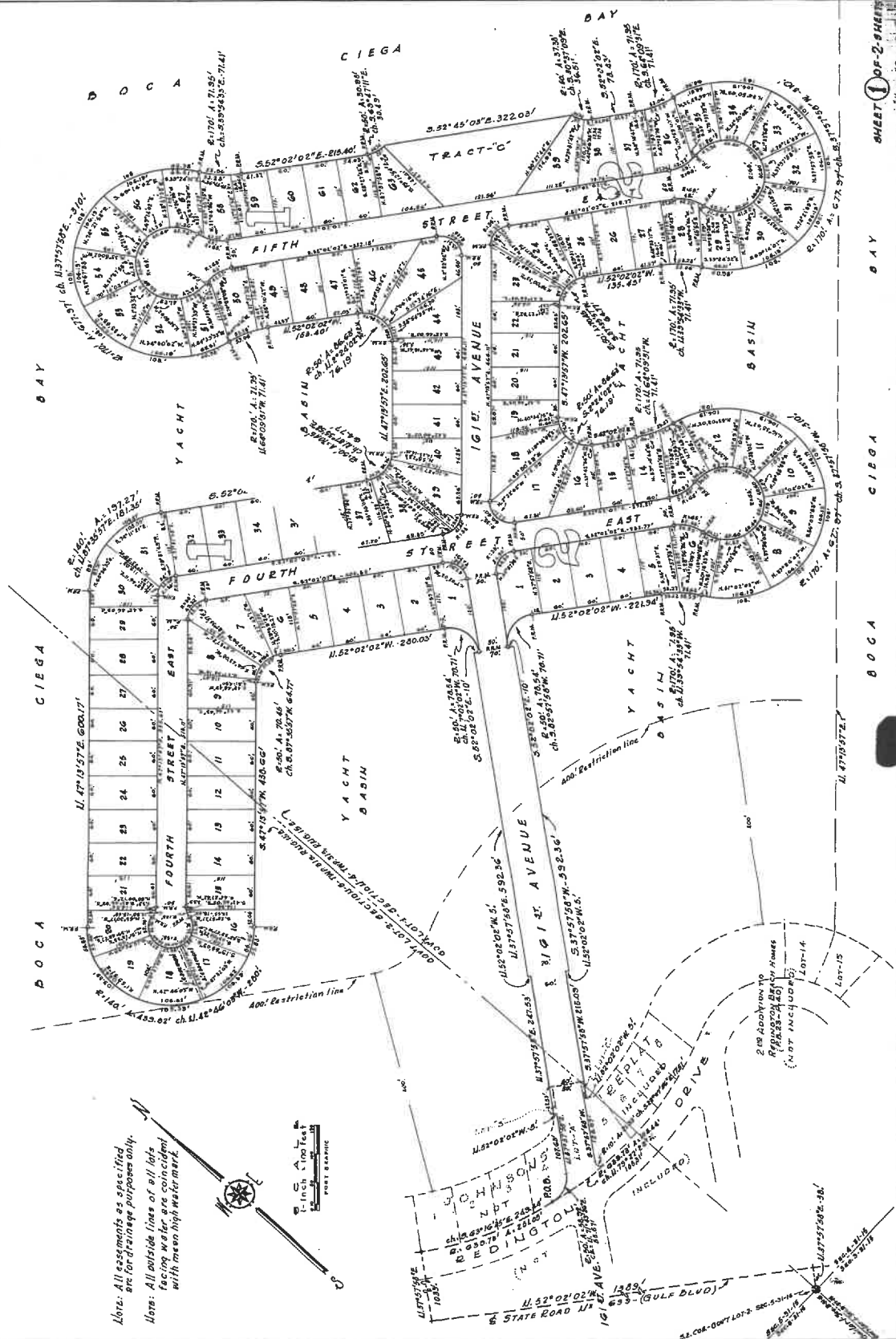
SIXTH ADDITION TO REDINGTON BEACH HOMES

BEING A SUBDIVISION OF LANDS LYING IN GOVERNMENT LOT-2-SECTION-5-TOWNSHIP-31S-RANGE-15E, AND GOVERNMENT LOT-1-SECTION-4-TOWNSHIP-31S-RANGE-15E, AND ALSO A REPLAT OF LOTS-A, 'B' AND 'C' OF JOHNSONS REPLAT AS RECORDED IN PLAT BOOK-24-PAGE-25-PINELLAS COUNTY RECORDS.

RAUGE-15E.
FLORIDA.

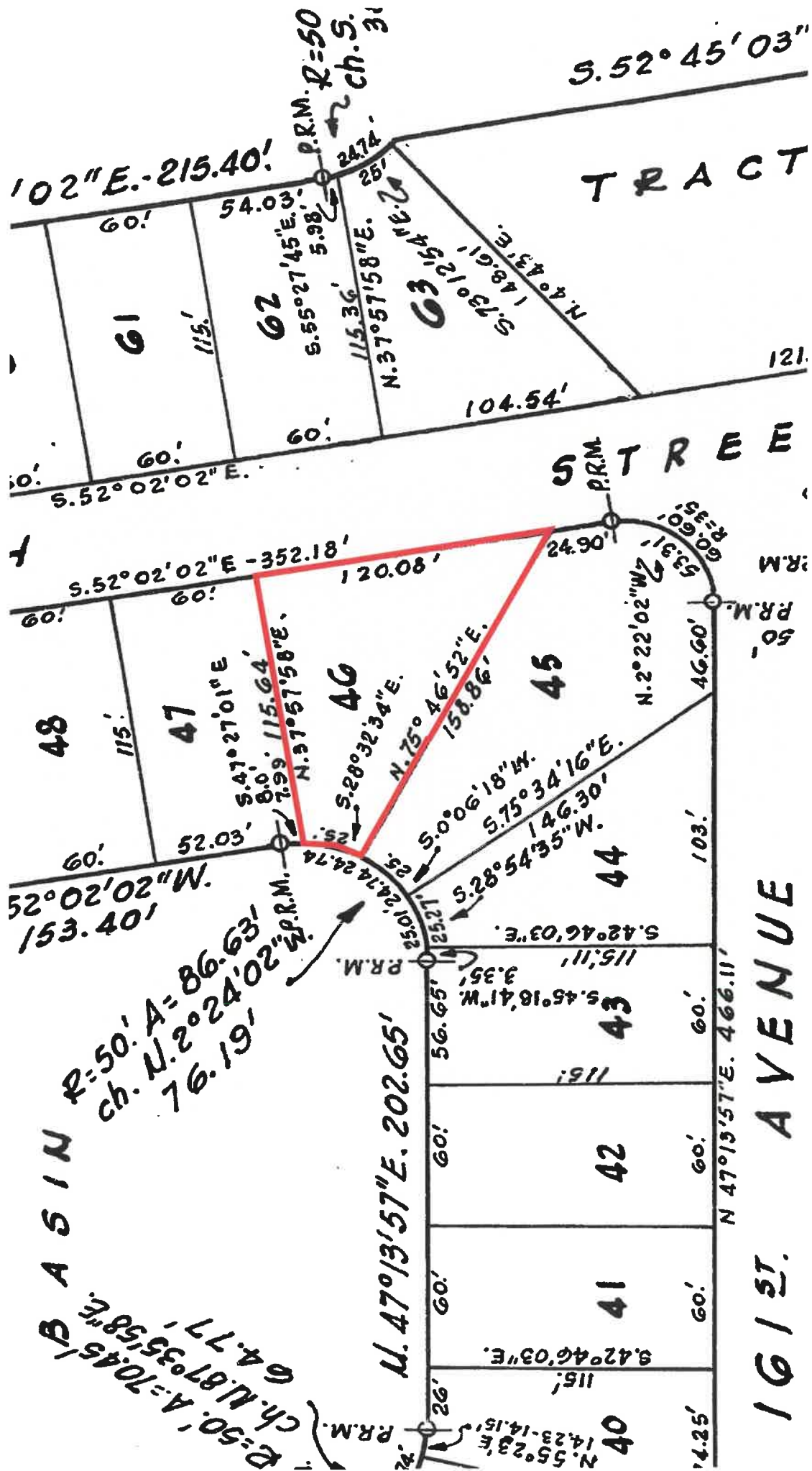
TOWNSHIP-31S
PINELLAS COUNTY

**SECTIONS-4 AND 5.
TOWN OF REDINGTON BEACH**



Notes: All easements as specified are for drainage purposes only.

1. The 1925 and Chapter 26151 Spt. Acts of 1949, Laws of Florida
Acts of 1925 and Chapter 26151 Spt. Acts of 1949, Laws of Florida
As to form, was filed for record on the 27th day of September
1955, at 11:00 o'clock A.M., and recorded in the public records
of Pinellas County, Florida, in Plat Book 32, Page 29-30
MORRISON, PEARCE, CLERK, CLERK COURT
By *James C. Morrison*, Deputy Clerk



PINELLAS COUNTY WATER & NAVIGATION CONTROL AUTHORITY
315 COURT STREET, CLEARWATER, FLORIDA 33756

ISSUED TO: ADVANCED MARINE CONST FOR RONALD FOWLER
16101 5TH ST E
REDINGTON BCH, FL 33708

DESCRIPTION: 04-31-15-73962-001-0630

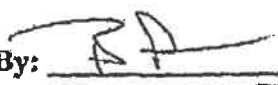
TO REPORT START DATE AND COMPLETION: (727) 464-3770

PERMIT NO. P36485-05

CLERK:

1. PERMITS MAY ALSO BE REQUIRED BY THE FOLLOWING AGENCIES: FL D.E.P. & U.S. ARMY C.O.E.
2. THE WATERS OF PINELLAS COUNTY ARE LOCATED WITHIN THE PINELLAS COUNTY & BOCA CIEGA BAY AQUATIC PRESERVE. SPECIAL REGULATIONS EXIST THAT GOVERN THE CONSTRUCTION WITHIN AN AQUATIC PRESERVE. PLEASE CONTACT THE FL D.E.P.
3. *THIS PERMIT IS VALID FOR A DOCK STRUCTURE ONLY.* ELECTRICAL & WATER/SEWER INSTALLATIONS WILL REQUIRE SEPARATE PERMITS FROM THE APPROPRIATE (Municipal or County) BUILDING DEPARTMENT.
4. THIS PERMIT IS SUBJECT TO A 30 DAY APPEAL PERIOD FROM DATE OF ISSUE- CHAPTER 31182, SPECIAL ACTS OF FLORIDA, 1955 AS REVISED.

KEN BURKE

By: 

Deputy Clerk

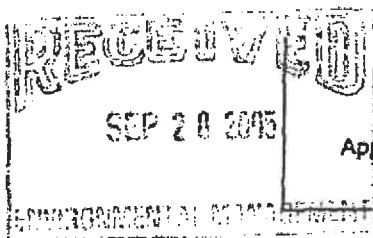
DATE OF ISSUANCE:

09 / 30 / 2005

FINAL INSPECTION:

**THIS PERMIT IS REQUIRED TO BE
POSTED IN A CONSPICUOUS LOCATION
AT THE CONSTRUCTION SITE.**

Direct all correspondence to:
Clerk, Water and Navigation
Control Authority
315 Court Street
Clearwater, FL 34616



Application #

7 36185-05

(OFFICIAL USE ONLY)

Jul 25 06

PRIVATE DOCK PERMIT APPLICATION

PINELLAS COUNTY WATER AND NAVIGATION CONTROL AUTHORITY

Please type, or hand print in BLACK ink

I. PROPERTY OWNER INFORMATION:

A. Applicant's Name: RONALD FOWLER
B. Mailing Address: 16101 5th street East
City: Redington Beach State: FL Zip: 33708
C. Telephone No.(s): 421-5713

II. AGENT INFORMATION:

A. Name: Advanced Marine Construction
B. Address: 1041 Harbor Lake DR.
City: Safety Harbor State: FL Zip: 34695
C. Telephone No.(s): 712-3909

III. SITE INFORMATION:

A. Construction Site Address: 16101 5th street East
City: Redington Beach
B. Parcel ID Number: 04/31/15/73962/001/0630
C. Incorporated: ☒ Unincorporated: ☐ Redington Beach
D. Affected waterbody: Boca Ciega Bay
E. Previous Permits: none
F. Date applicant assumed property ownership: Sept. 2002
month/year
G. Obstructions: (dogs, fences, etc.) Fence

H. Attach 8-1/2" X 11" vicinity map showing specific project location.

I. All other information pursuant to P.C.O. 90-19 (amended), Section 10.8, as needed.

J. For projects requiring a public hearing, attach a copy of the complete legal description.

048W0201/ENV/NGMNT/PR/001 4/26/04

County Application

Application #

1264/034

(OFFICIAL USE ONLY)

IV. PROJECT DESCRIPTION:

A. Nature and Size of Project: Construct a 4' x 23' wedge shaped dock
per drawing. Install a 6,000lb. Dero cradle lift to Right side
of dock per drawing. Square feet: 75

B. Variance: Yes ☐ No ☒

Amount in variance: Length: _____ Width: _____

Setbacks: L _____; R _____

Other: _____

NOTE: It is the applicant's responsibility to clearly demonstrate that any requested variances are consistent with the variance criteria of the Pinellas County Water and Navigation Control Authority Regulations. The applicant must submit a written variance request outlining the nature of and need for any variances. The applicant must demonstrate that a literal enforcement of the regulations would result in an extreme hardship due to the unique nature of the project and the applicant's property. The hardship must not be created by action(s) of the property owner(s). The granting of the variance must be in harmony with the general intent of the regulations and not infringe upon the property rights of others. The variance requested must be the minimum possible to allow for the reasonable use of the applicant's property. Should the applicant fail to demonstrate that any variance request is consistent with the criteria outlined in the regulations, staff cannot recommend approval of the application.

V. CONTRACTOR INFORMATION:

I, Stephen Lott, a certified contractor, state that the dock has not been constructed and that it will be built in compliance with all requirements and standards set forth in the "Rules and Regulations" of the Pinellas County Water and Navigation Control Authority, and in accordance with the attached drawings which accurately represent all the information required to be furnished. In the event that this dock is not built in accordance with the permit or the information furnished is not correct, I agree to either remove the dock or correct the deficiency.

Signed: _____

Cert. No.: C#8078

Company Name: Advanced Marine Construction Telephone No.: 712-3909

Address: 1041 Harbor Lake DR. Safety Harbor FL 34695

VI. OWNER'S SIGNATURE:

I hereby apply for a permit to do the above work and state that the same will be done according to the map or plan attached hereto and made a part hereof, and agree to abide by the "Rules and Regulations" of the Pinellas County Water and Navigation Control Authority for such construction and, if said construction is within the corporate limits of a municipality, to first secure approval from said municipality. I further state that said construction will be maintained in a safe condition at all times, should this application be approved, that I am the legal owner of the upland from which I herein propose to construct the improvements, and that the above stated agent/contractor may act as my representative. I understand that I, not Pinellas County, am responsible for the accuracy of the information provided as part of this application and that it is my responsibility to obtain any necessary permits and approvals applicable for the proposed activities on either private or sovereign owned submerged land.

4/20/05
Date

(X) [Signature]
Legal Owner's Signature

PRIVATE DOCK

16101 5th St E
Redington Beach 33708

Application #

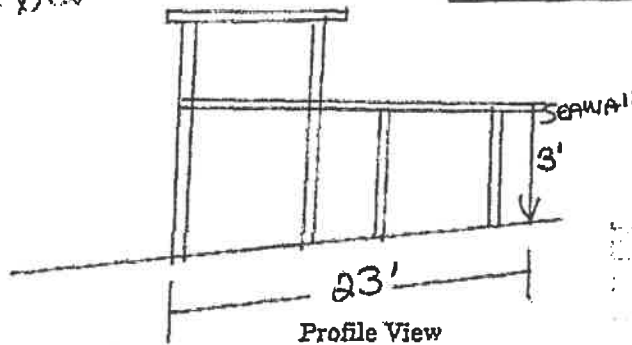
P26480-05

(OFFICIAL USE ONLY)

MHW

MLW

BOTTOM



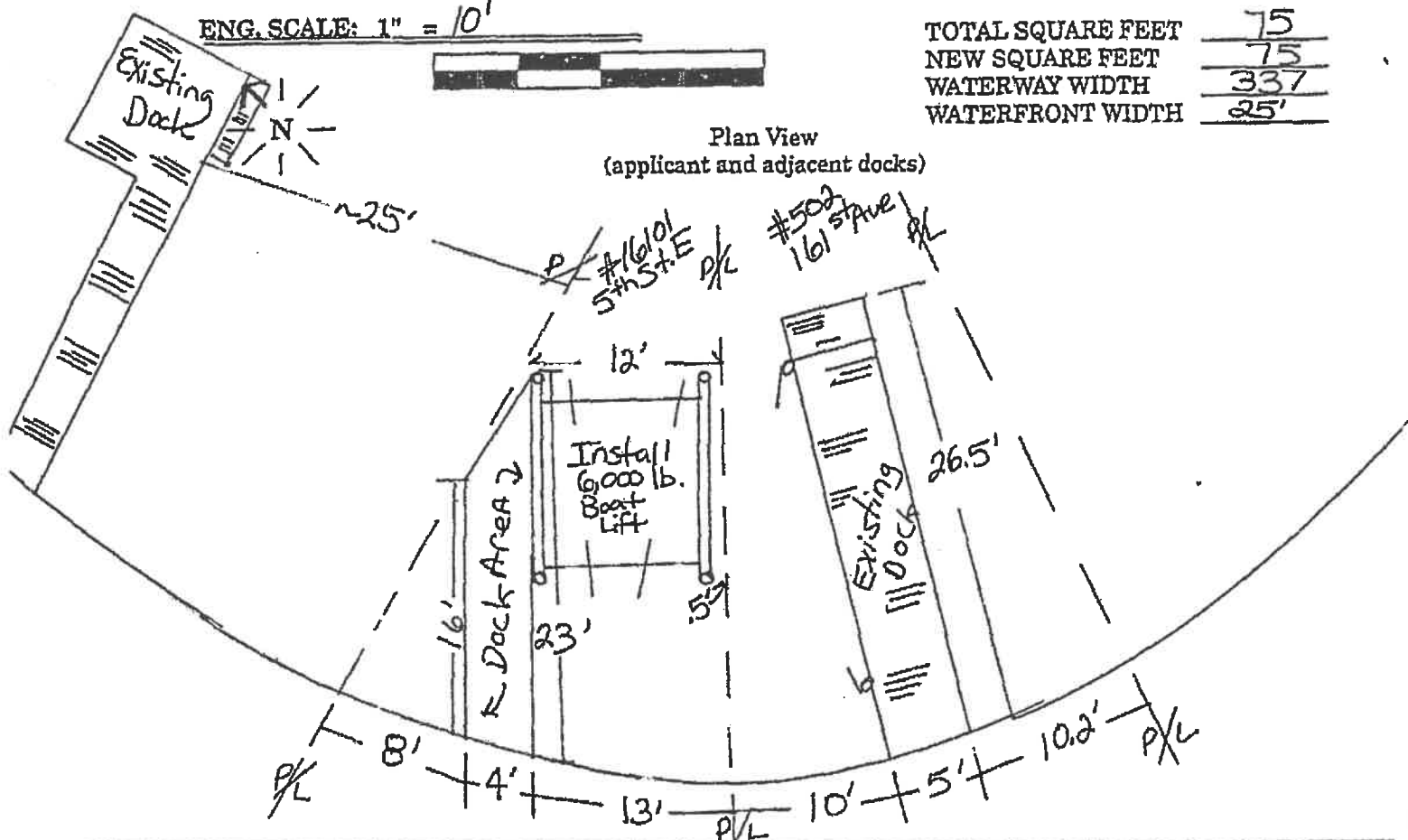
Profile View

ENG. SCALE: 1" = 10'



TOTAL SQUARE FEET 75
NEW SQUARE FEET 75
WATERWAY WIDTH 337
WATERFRONT WIDTH 25'

Plan View
(applicant and adjacent docks)



SHORELINE

The undersigned does not object to the proposed dock and requested variances as drawn in the space provided above.

Left Owner

Right Owner

Signature

Date

Signature

Date

Municipality Approval

Water and Navigation Approval

9-27-05
[Signature]

FOR WILLIAM M. DAVIS, DIRECTOR

APPROVED
PINELLAS COUNTY
ENVIRONMENTAL MANAGEMENT
9-30-05
[Signature]

VARIANCE REQUEST FORM

Application #

(OFFICIAL USE ONLY)

Left Lot Owner's Name: _____

Mailing Address: _____

Zip: _____

I certify that I am the owner of Lot _____ which adjoins the property owned by the applicant who proposes to construct a Commercial ☐ Multi-use ☐ Private ☐ dock at the following address:

I have seen the plans of the proposed structure(s) with any requested variances (see Section IVB of Application) and therefore: DO OBJECT ☐ DO NOT OBJECT ☐ to the construction.

OWNER'S SIGNATURE: _____

X _____

Date _____

NOTARY:

STATE OF FLORIDA, PINELLAS COUNTY, BEFORE ME, the undersigned authority, personally appeared _____, well known to me, or who provided a valid Florida Driver's License to be the person who executed the foregoing instrument and that he/she acknowledged to me, under oath, that he/she signed the same freely and voluntarily for the purposes expressed therein.

Witness my hand and official seal this _____ day of _____, 19 ____.

Notary Public

My commission expires: _____

Right Lot Owner's Name: _____

Mailing Address: _____

Zip: _____

I certify that I am the owner of Lot _____ which adjoins the property owned by the applicant who proposes to construct a Commercial ☐ Multi-use ☐ Private ☐ dock at the following address:

I have seen the plans of the proposed structure(s) with any requested variances (see Section IVB of Application) and therefore: DO OBJECT ☐ DO NOT OBJECT ☐ to the construction.

OWNER'S SIGNATURE: _____

X _____

Date _____

NOTARY:

STATE OF FLORIDA, PINELLAS COUNTY, BEFORE ME, the undersigned authority, personally appeared _____, well known to me, or who provided a valid Florida Driver's License to be the person who executed the foregoing instrument and that he/she acknowledged to me, under oath, that he/she signed the same freely and voluntarily for the purposes expressed therein.

Witness my hand and official seal this _____ day of _____, 19 ____.

Notary Public

My commission expires: _____

County Application

Application #

P 36485 15

(OFFICIAL USE ONLY)

DISCLOSURE FORM

In order to alleviate any potential conflict of interest with Pinellas County staff, it is required that the Authority be provided with a listing of PERSONS being party to a trust, corporation, or partnership, as well as anyone who may have beneficial interest in the application which would be affected by any decision rendered by the Authority. (Attach additional sheets if necessary.)

A. PROPERTY OWNERS:

Name: Ronald Fowler
Address: 16101 5th St E
Redington Beach FL

Name: Joan Fowler
Address: 16101 5th St E
Redington Beach FL

Name: _____
Address: _____

Name: _____
Address: _____

B. REPRESENTATIVES:

Name: Advanced Marine Construction
Address: 1041 Harbor Lake DR.
Safety Harbor, FL 34695

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

C. OTHER PERSONS HAVING OWNERSHIP INTEREST IN THE SUBJECT PROPERTY:

Interest is: contingent ☐ absolute ☒

Name: _____ specific interest held _____

D. DOES A CONTRACT FOR SALE EXIST FOR THE SUBJECT PROPERTY? YES ☐ NO ☒

If so, the contract is: contingent ☐ absolute ☐

Name of parties to the contract: _____

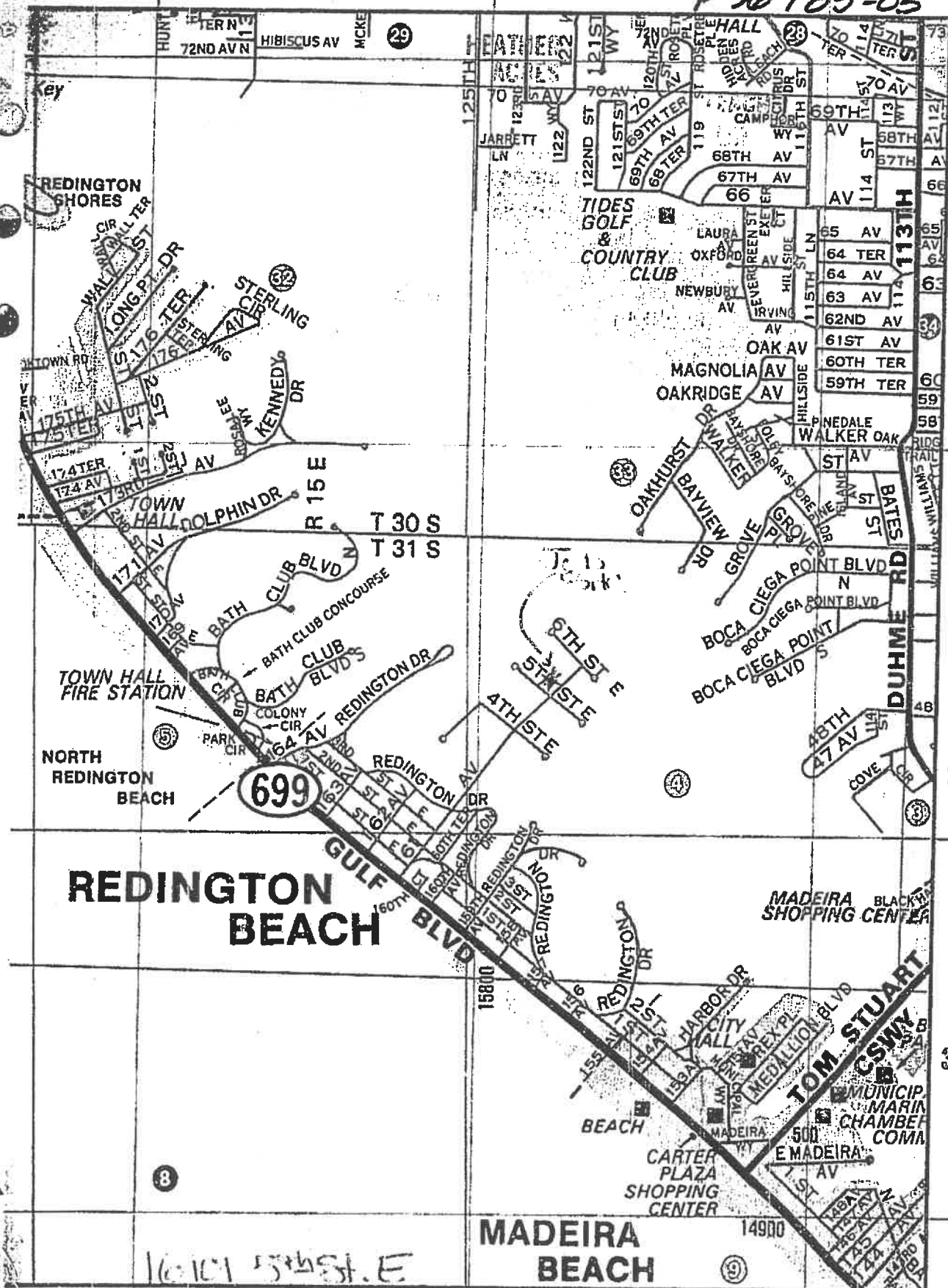
E. DOES AN OPTION TO PURCHASE EXIST FOR THE SUBJECT PROPERTY? YES ☐ NO ☒

Name of parties to the option: _____

F. OWNER'S SIGNATURE:

I hereby certify that the information stated above is complete, accurate, and true to the best of my knowledge.

☒ [Signature] Date 9/20/05



F SOUTH LIMIT OF MAP G
APPROXIMATE SCALE OF MILES

PINELLAS COUNTY WATER & NAVIGATION CONTROL AUTHORITY
315 COURT STREET, CLEARWATER, FLORIDA 33756

ISSUED TO: DOLPHIN MARINE EQUIP INC FOR KEITH AND ELIZABETH EVANS
CONSTRUCTION SITE: 16106 6TH STREET EAST,

REDINGTON BCH, FL 33708

DESCRIPTION: 04-31-15-73980-000-0310

Permit is valid for 3 years

TO REPORT START DATE AND COMPLETION DATE, CALL: (727) 464-3770

PERMIT NO. P40123-09

1. PERMITS MAY ALSO BE REQUIRED FROM THE FOLLOWING AGENCIES: FL D.E.P & U.S. ARMY C.O.E.

CLERK:
KEN BURKE

2. THE WATERS OF PINELLAS COUNTY ARE LOCATED WITHIN THE PINELLAS COUNTY & BOCA CIEGA BAY AQUATIC PRESERVE. SPECIAL REGULATIONS EXIST THAT GOVERN THE CONSTRUCTION WITHIN AN AQUATIC PRESERVE. PLEASE CONTACT THE FL D.E.P.

By: M. Michelle Adams
Deputy Clerk

DATE OF ISSUANCE:

08/26/09

3. THIS PERMIT IS VALID FOR A DOCK STRUCTURE ONLY. ELECTRICAL & WATER/SEWER INSTALLATIONS WILL REQUIRE SEPARATE PERMITS FROM THE APPROPRIATE (Municipal or County) BUILDING DEPARTMENT.

FINAL INSPECTION:

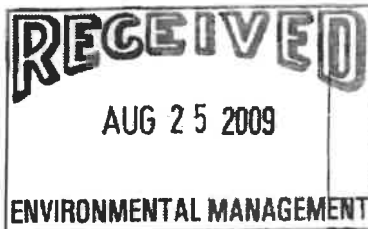
4. THIS PERMIT IS SUBJECT TO A 30 DAY APPEAL PERIOD FROM DATE OF ISSUE- CHAPTER 31182, SPECIAL ACTS OF FLORIDA, 1955 AS REVISED.

_____/_____/_____

**THIS PERMIT IS REQUIRED TO BE
POSTED IN A CONSPICUOUS LOCATION
AT THE CONSTRUCTION SITE.**

Direct all correspondence to:

Clerk, Water and Navigation
Control Authority
345 Court Street
Clearwater, FL 33756



Application # P40123-09
(OFFICIAL USE ONLY)

#42500 # 41530

PRIVATE DOCK PERMIT APPLICATION

PINELLAS COUNTY WATER AND NAVIGATION CONTROL AUTHORITY

✓ **ORIGINAL** Please type, or hand print in BLACK ink

I. PROPERTY OWNER INFORMATION:

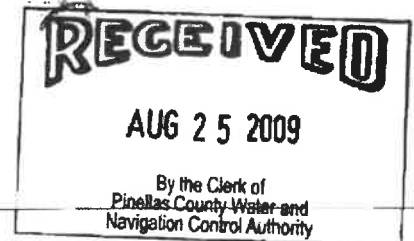
A. Applicant's Name: Keith & Elizabeth Evans
B. Mailing Address: 16106 6th Street East
City: Redington Beach State: Fl. Zip: 33708
C. Telephone No. (s): 403-1466

Permit not to include electric or plumbing.

II. AGENT INFORMATION:

Gene Jerichow

DOLPHIN MARINE EQUIPMENT INC.
13056 FAXTON ST.
CLEARWATER FL. 33760
727-5398113



III. SITE INFORMATION:

A. Construction Site Address: same
City: same
B. Parcel ID Number: 04 / 31 / 15 / 73980 / 000 / 0310
C. Incorporated: X / Unincorporated: / / Redington Beach
D. Affected waterbody: Boca Ciega Bay
E. Previous Permits: P1629-1111
F. Date applicant assumed property ownership: 6/99 month/year
G. Obstructions: (dogs, fences, etc.) none
H. Attach 8-1/2"x11" vicinity map showing specific project location.
I. All other information pursuant to P.C.O.90-19 (amended), Section 10.8, as needed.
J. For projects requiring a public hearing, attach a copy of the complete legal description.

This project qualifies for U.S. Army Corps of Engineers permit SAJ-96. Approval from the FL Dept. of Environmental Protection (813-832-7600) may also be required.

Application #: P40123-09
(official use only)

IV. Project Description:

A. Nature and Size of Project: REMOVE EXISTING DOCK AND DAVITS AND INSTALL
NEW 8' X 28' DOCK WITH ANGLE SIDE. INSTALL A 5000LB CRADLE
LIFT
Square Feet: 156 SQ

Permit not to include electric or plumbing.

B. Variance: Yes: ☒ No: ☐

Amount in variance: Length: _____ Width: _____

Setbacks: L: _____ R: _____

Other: CITY

Note: It is the applicant's responsibility to clearly demonstrate that any requested variances are consistent with the variance criteria of the Pinellas County Water and Navigation Control Authority Regulations. The applicant must submit a written variance request outlining the nature of any need for any variances. The applicant must demonstrate that a literal enforcement of the regulations would result in an extreme hardship due to the unique nature of the project and the applicant's property. The hardship must not be created by action(s) of the property owner(s). The granting of the variance must be in harmony with the general intent of the regulations and not infringe upon the property rights of others. The variance requested must be the minimum possible to allow for the reasonable use of the applicant's property. Should the applicant fail to demonstrate that any variance request is consistent with the criteria outlined in the regulations, staff cannot recommend approval of the application.

V. Contractor Information:

I, Lawrence Fisk, a certified contractor, state that the dock has not been constructed and that it will be built in compliance with all requirements and standards set forth in the "Rules and Regulations" of the Pinellas County Water and Navigation Control Authority, and in accordance with the attached drawings which accurately represent all the information required to be furnished. In the event that this dock is not built in accordance with the permit or the information furnished is not correct, I agree to either re-move the dock or correct the deficiency.

Signed: _____

Cert. No.: C4017

Dolphin-Marine Equipment, Inc.
13056 Faxton Street
Clearwater, Florida 33760
727-539-8113

VI. Owner's Signature:

I hereby apply for a permit to do the above work and state that the same will be done according to the map or plan attached hereto and made a part hereof, and agree to abide by the "Rules and Regulations" of the Pinellas County Water and Navigation Control Authority for such construction and, if said construction is within the corporate limits of a municipality, to first secure approval from said municipality. I further state that said construction will be maintained in a safe condition at all times, should this application be approved, that I am the legal owner of the upland from which I herein propose to construct the improvements, and that the above stated agent/contractor is not responsible for state dep permits and may act as my representative. I understand that I, not Pinellas County or Dolphin Marine Equipment, Inc., are responsible for the accuracy of the information provided as part of this application and that it is my responsibility to obtain any necessary permits and approvals applicable for the proposed activities on either private or sovereign owned submerged land.

X 7/20/09 X
Date
7/20/09

Elizabeth E.
Legal Owner's Signature

PRIVATE DOCK (A)

Application # P40123-09

(OFFICIAL USE ONLY)

MHW

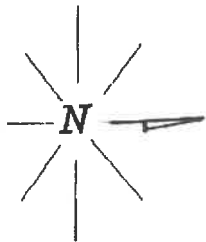
MLW

BOTTOM

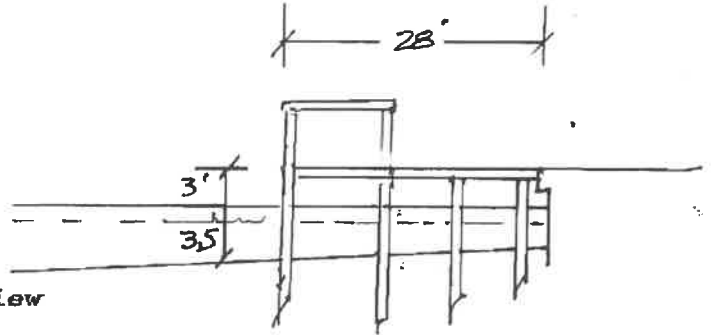
Permit not to include electric or plumbing.

Framing 2"x8", Decking 2"x6"

ENG. SCALE: 1" = 20'



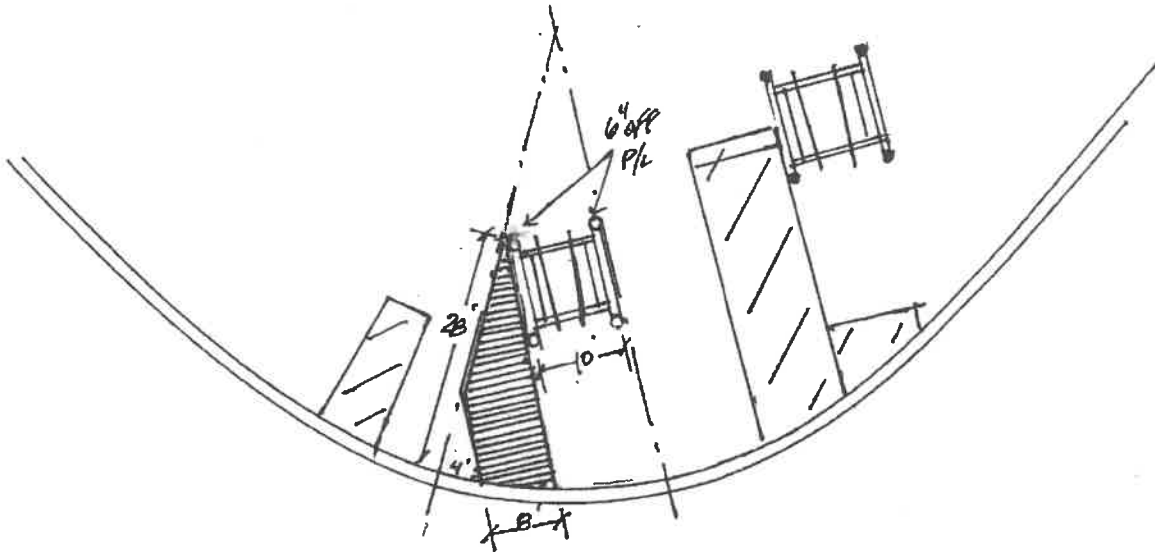
Profile View



Plan View

TOTAL SQUARE FEET	156 SQ
NEW SQUARE FEET	156 SQ
WATERWAY WIDTH	300'
WATERFRONT WIDTH	25.26

This project qualifies for U.S. Army Corps of Engineers permit SAJ-96. Approval from the FL Dept. of Environmental Protection (813-632-7600) may also be required.



SHORELINE

SHORELINE

The undersigned does not object to the proposed dock and requested variances as drawn in the space provided above.

Left Owner

Right Owner

Signature

[Signature] Date 7/19/09

Signature

[Signature] Date 7/20/09

MUNICIPALITY APPROVAL

WATER AND NAVIGATION APPROVAL

[Signature] 7/19/09
514 161st Ave
Redington Bch, 33708

BLD009-0153



ALC 8/25/09

APPROVED

PINELLAS COUNTY
ENVIRONMENTAL MANAGEMENT

[Signature] 8-20-09
FOR WILLIAM M. DAVIS, DIRECTOR

P40123-09



**TOWN OF REDINGTON BEACH
Board of Adjustment**

ORDER AFTER HEARING ON APPLICATION FOR VARIANCE OR EXCEPTION

Hearing Date: 8 / 20 / 20 09

ORDER

**Keith & Elizabeth Evans
16106 6th St E
Redington Beach, FL 33708**

The Board of Adjustment, having duly met in a regularly noticed Hearing and having considered the application of the parties noted above, the evidence presented, and the testimony given, and, upon Motion duly made and Seconded and a vote having been taken, the following ORDER is hereby entered on this

20 day of Aug., 20 09 :

☒ The Application for Variance or Exception is GRANTED as requested

☐ The Application for Variance or Exception is GRANTED as amended or modified on the record, as follows:

☐ The Application for Variance or Exception is DENIED

Roger A. Reese
Board of Adjustment Presiding Officer

ROGER A. REESE
Print Name

ATTEST:

Missy Clarke

Print Name & Title: Missy Clarke, Deputy Town Clerk

Application #: P40123-09
(Official Use Only)

Disclosure Form

In order to alleviate any potential conflict of interest with Pinellas County staff, it is required that all Authority be provided with a listing of PERSONS being party to a trust, corporation, or partnership, as well as anyone who may have beneficial interest in the application which would be any decision rendered by the Authority. (Attach additional sheets if necessary.)

A. Property Owners

Name: Keith or Elizabeth Evans
Address: 16106 6th Street East
Redington Beach, Florida 33708

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

B. Representatives:

Name: Dolphin Marine Equipment, Inc.
Address: 13056 Faxton Street
Clearwater, Florida 33760

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

C. Other persons having ownership interest in the subject property:

Interest is: Contingent ☐

Absolute ☐

Name: _____ Specific Interest held: _____

D. Does a contract for sale exist for the subject property? Yes ☐ No ☒

If so, the contract is: Contingent ☐

Absolute ☐

Name of parties to the contract: _____

E. Does an opinion to purchase exist for the subject property? Yes ☐ No ☒

Name of parties to the option: _____

F. Owners Signature:

I hereby certify that the information stated above is complete, accurate, and true to the best of my knowledge.

X

Elizabeth Evans
IK-4

Date: 7/20/09

7/20/09

Clerk, Water and Navigation
Control Authority
315 Court Street
Clearwater, Florida 33756

Application # P40123-09
(OFFICIAL USE ONLY)

1) Existing Structures And Vessels

Structures / Vessels /

2) Proposed Structures And Vessels

Structures REBUILD Vessels /

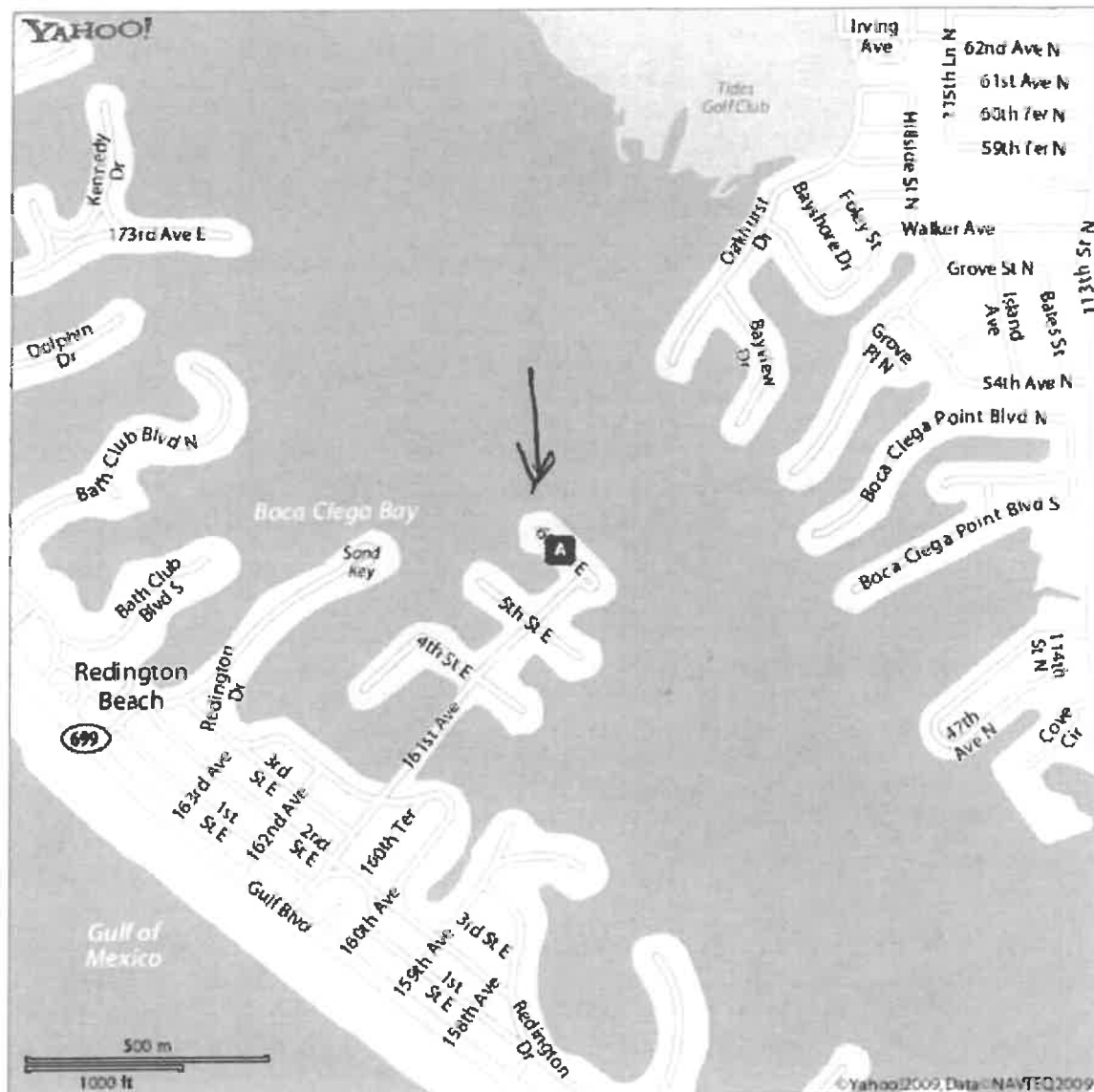
3) Distance In Feet To Federal Channel

1500 Feet

4) Applicant Agrees To Follow All Standard
Manatee Precautions

Map of 16106 6th St E, Redington Beach, FL
33708-1618

YAHOO!



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.

EXHIBIT A

EXHIBIT "C"
STAFF REPORT



TOWN OF REDINGTON BEACH
105-164th AVENUE
REDINGTON BEACH, FL 33708
PHONE: 727-391-3875
FAX: 727-397-6911
www.townofredingtonbeach.com

MAY 10 2023

Variance request for 16100 5th St E.

The board of adjustment shall have the following powers and duties:

(1) To authorize upon application in specific cases such variances from the terms of the Town's Code of Ordinances unless otherwise specifically excepted, that as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of those provisions would result in unnecessary and undue hardship.

(2) To consider written applications for a variance when it is demonstrated that:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other similarly situated lands, structures, or buildings in the same district; and
- b. A literal interpretation of the provisions of the applicable code would deprive the applicant of rights commonly enjoyed by other similarly situated properties in the same district under the terms of the applicable code.

STAFF COMMENT:

The applicant is requesting a variance from Section 5.57 (a) (3) a & b, to build a dock and lift facility that would be outside the center 1/3 of the property and closer to the side property line than 7.5 feet. The applicant's lot is a pie shape lot with a narrow width at the waterfront. In addition, the lot is at the end of the small basin which with the pie shape lot, there is no way to have a dock without a variance.

c. No variance shall be granted unless the applicant demonstrates by relevant, competent, and substantial evidence that the following criteria have been satisfied:

- 1. The property has an unusual hardship not suffered by other similarly situated properties within the same district;

STAFF COMMENT:

As stated above, this property does have an unusual hardship.

- 2. The hardship of the property was not self-created by the applicant and was not the result of an action taken with the applicant's prior knowledge or approval. Further, no



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variance may be granted arising from illegal construction of a structure or an illegal use of the premises which would otherwise have required a permit to be issued and which construction was commenced illegally. Under such conditions, the property owner shall have no legal right to apply for a variance and the board shall have no legal right to grant a variance.

STAFF COMMENT:

The special conditions were not created by the applicant.

3. The requested variance is the minimum variance necessary to permit the reasonable use of the property;

STAFF COMMENT:

Based on the above conditions, this request is reasonable.

4. The requested variance will not confer on the applicant any special privilege that is denied by the applicable code to other similarly situated property owners;

STAFF COMMENT:

Granting the variance would not confer any special privilege.

5. The literal interpretation of the applicable code would deprive the applicant of rights commonly enjoyed by other similarly situated property owners;

STAFF COMMENT:

Literal interpretation would deprive the applicant of rights commonly enjoyed by other properties

6. The requested variance will not be contrary to the public interest and will be in harmony with general intent and purpose of the applicable code.



TOWN OF REDINGTON BEACH
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REDINGTON BEACH, FL 33708
PHONE: 727-391-3875
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www.townofredingtonbeach.com

STAFF COMMENT:

The requested variance will not be contrary to the public interest and would be in harmony of the code.

STAFF RECOMMENDATION:

Recommend approval.

Bruce Cooper

Bruce Cooper, CBO, CFM

Building Official

EXHIBIT “D”

ORDER

Craig Taraszki

From: deputyclerk@townofredingtonbeach.com
Sent: Tuesday, May 23, 2023 9:15 AM
To: Craig Taraszki
Subject: ORDER - 16100 5th St. E. - Koehler
Attachments: Signed ORDER - 16100 5th St. Koehler.pdf

This message originated from outside Johnson, Pope, Bokor, Ruppel, & Burns, LLP

Good morning, Craig,

I have attached a pdf of the signed order from the meeting on May 18, 2023.

Regards,

Dee Runyon

Deputy Town Clerk

Town of Redington Beach
105-164th Avenue
Redington Beach, FL 33708
727-391-3875
727-397-6911 (FAX)
DEPUTYCLERK@TOWNOFREDINGTONBEACH.COM

ORDER ON APPLICATION FOR VARIANCE

Applicant: Keith and Megan Koehler

Property: 16100 5th Street East Redington Beach, FL 33708

Date of Variance Hearing: May 18, 2023

The Applicants, Keith and Megan Koehler, have applied for a variance from the provisions of Sec. 5-57(a)(3)(a); 5-57(a)(3)(b); and 5-57(a)(3)(g) of the Town of Redington Beach Zoning Code, regarding specifications for docks, for the property located at 16100 5th Street East Redington Beach, Florida 33708. A hearing was held before the Town's Board of Adjustment on May 18, 2023. The Town was represented by Building Official Bruce Cooper. Applicants Keith and Megan Koehler were represented by Craig Taraszki, Esq. at the hearing. Evidence was submitted, and testimony was taken under oath.

Variance Criteria and the Board of Adjustment's Authority

Section 6-289 of the Town of Redington Beach Code of Ordinances authorizes the Town's Board of Adjustment to authorize variances from the terms of the Town's Code of Ordinances, unless specifically excepted, as will not be contrary to the public interest when owing to the special conditions a literal enforcement would result in an unnecessary and undue hardship.

In order to grant a variance, the Board of Adjustment must find that the applicant has demonstrated the following criteria:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other similarly situated lands, structures, or buildings in the same district; and
- (2) A literal interpretation of the provision of the applicable code would deprive the applicant of rights commonly enjoyed by other similarly situated properties in the same district under the terms of the applicable code.

Further, the Board shall make a finding whether the reasons set forth in the application justify the granting of the variance based on a unique hardship, that has not been self-created, that is peculiar to the land and whether the variance is the minimum variance that will make possible the reasonable use of the property. The Board shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Town's code, will not confer a special privilege on the applicant, would not deprive the applicant of rights commonly enjoyed by property owners, and will not be contrary to public interest. The Board is entitled to set appropriate conditions and safeguards in conformity with the Town's code.

VARIANCE APPLICATION AND CONSIDERATION

The Applicant seeks a variance from Sections 5-57(a)(3)(a); 5-57(a)(3)(b); and 5-57(a)(3)(g) of the Town of Redington Beach Zoning Code.

Section 5-57(a)(3)(a) provides, in relevant part, that all dock facilities except for boatlifts and associated catwalks and tie poles, shall be contained within the center one-third of the property along the waterfront, but in no case shall any part of the dock facility be located any closer to a side lot line than the required setback for the zoning district in which the property is located.

Section 5-57(a)(3)(b) provides, in relevant part, that boatlifts and associated catwalks and tie poles may be located no closer than seven and one-half feet from the property lines of the associated property as extended into the water.

Section 5-57(a)(3)(g) provides, in relevant part, that no portion of the dock facility and/or boat or personal watercraft shall be any closer than the greater of seven and one-half feet to the side property line or the required side setback as extended into the water.

The evidence at the hearing demonstrated the Applicant seeks to construct a dock that is outside the center third of the property and located six inches from the waterward projection of the side lot lines.

The Building Official recommended approval of the variance, as the lot in question is pie shaped with a narrow width at the waterfront.

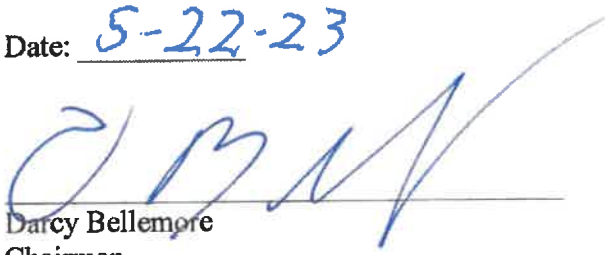
The Applicant was afforded the opportunity to make a closing statement. The public was afforded an opportunity to comment. In considering the testimony and evidence against the variance criteria contained in the Code, the Board determined that the applicant has not met the criteria, as the requested variance is not the minimum variance necessary to permit the reasonable use of the property.

Based on the application, the evidence presented at the hearing, and the variance criteria considered by the Board, it is ORDERED that the requested variance is DENIED.

Section 6-291 of the Code of Ordinances provides that:

Any person aggrieved by any decision of the board, may seek judicial review of such decision in a court of competent jurisdiction as provided by law. The decision of the board of adjustment shall be considered final administrative action, and shall only be subject to review based upon the record established at the hearing before the board.

Date: 5-22-23



Darcy Bellemore
Chairman

Town of Redington Beach, Board of Adjustment

Agenda item 9E.

4th St E. Drainage Improvements



TOWN OF REDINGTON BEACH
105 - 164th AVENUE
REDINGTON BEACH, FL 33708
PHONE: 727-391-3875 FAX: 727-397-6911
www.townofredingtonbeach.com

November 8, 2023

Re: Bid for drainage swale restoration for 4th St.

Attached is a bid to restore the swale system along 4th St E. Along with the bid of \$12,520, they are estimating approximately 50 feet of drains to be installed or an additional \$2,500. I would recommend that we accept this bid and not to exceed \$16,000 in case more drains are needed to be installed.

Sincerely,

Bruce Cooper

Bruce Cooper, CBO, CFM
Building Official

G.A. NICHOLS COMPANY

**2271 BELLEAIR RD
CLEARWATER, FL 33764
FLA LIC # CGCA 17846**

**(727) 561-0509
Fax (727) 561-0511
Ben@ganichols.com**

April 20, 2023
Missy Clarke
Town of Redington Beach
105 164th Ave
391-3875
townclerk@townofredingtonbeach.com

RE: 4th St East - Drainage

We will do the following work:

Using a machine, cut grass areas down to form a swale that directs water towards the proper drains in front of residences 11632 - 11621 & 16114 – 16126

- Resod
- Haul away construction materials
- Clean up

The cost for this work is.....\$ 12,520.00

If deemed necessary, we will install 5" trench drain embedded in the driveway for.....\$ 50.00 per ft extra

Conditions:

No permitting, engineering, or silt fence costs are included

Payment due upon completion

Not responsible for damage to any underground utilities

Sincerely,

Ben Poley
Project Manager
